

MINUTES

ECONOMIC DEVELOPMENT (SUSTAINABILITY / AGRICULTURE / FOOD / ENERGY) & INTERGOVERNMENTAL RELATIONS COMMITTEE

September 9, 2013

A meeting of the Economic Development (Sustainability / Agriculture / Food / Energy) & Intergovernmental Relations Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Gary L. Hooser, Chair, at the Council Chambers, at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Monday, September 9, 2013, at 9:05 a.m., after which the following members answered the call of the roll:

Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Gary L. Hooser
Honorable Tim Bynum, Ex-Officio Member
Honorable Jay Furfaro, Ex-Officio Member (*excused at 11:20 a.m.*)

Chair Hooser: Good morning everyone. I would like to suspend the rules and talk a little bit about the format for today. It has been requested that the Committee consider somehow balancing the blue shirts and the red shirts. My opinion and the Committee can decided differently if they like, is that it is what it is. The rules are clear that it starts at a certain time and so whoever gets here first gets in line and gets seated. So, I am not going to attempt to change any rules or any format right now. We will be having public testimony as long as it takes. So, anyone who is not able to come into the building and sit now, can testify at a later time. Frankly, I am tired of waking up in the morning and trying to decide what color I am going to wear. As you all see, I am wearing blue today. Most of my closet is made up of blue. Again, I want to thank everybody and I will go over for the members and for the audience, a little bit about what I anticipate the format to be for today. My intention is to follow the last Committee Meeting's general direction where we will have the Department of Health come up first. I do not see, is Gary Gill here? No. He has not arrived yet. He will talk about the Department of Health's role, members will ask questions as we did before, ten (10) minutes make a round, another ten (10) minutes, no interruptions, no follow-up, and you do not all have to talk for the whole ten (10) minutes both times, of course. Then, Larry Dill from the Department of Public Works is going to come up. Then after that, the representatives of the stakeholders who are primarily impacted by this legislation, Kaua'i Coffee and the four (4) seed companies, their representatives are here. Thank you for coming and I apologize for the last meeting, we did not get to you and that is just the nature of these meetings where if you want to speak you have to be here and we do not always get to you. But I am glad that you are here today and I am hopeful that you will be here to answer questions about the impacts that might occur as well as to offer suggestions as you might see us moving forward with this. Last meeting we had extensive discussion on legal issues and we have had extensive discussion on science and other things for a long, long time. So, I am hopeful that we can focus on other items today. Members of course can ask whatever question they would like. So, after that discussion is over I am hopeful that it will be over with by lunch time which will be either twelve o'clock (12:00 p.m.) or one o'clock (1:00 p.m.), we would go to lunch and then come back and possibly discuss amendments that some members might be thinking of, and put some of those on the table. There might be housekeeping

amendments, there might be substantive amendments, and then take public testimony from that point. We may or may not vote on amendments. We may or may not vote on the substance of the Bill itself. I frankly doubt, but have no way of knowing what actually is going to happen. But I doubt if there will be any earthshaking vote at today's meeting. So, those of you that are hear and want to witness the final vote of the Committee, I do not think that is going to happen, but you just never know. My understanding of the rules of the Committee from public statements and others is that there may be a request to defer it for one (1) more week to allow the Committee to further work on amendments of substance. Because of the Sunshine Law, we are not allowed to meet together to go over these things so it is kind of awkward to say the least. Amendments will be presented and we will never have seen them before possibly. It is a reasonable request to defer because it is a somewhat complicated issue. So, that is my remarks. Yes, Councilmember Yukimura.

Ms. Yukimura: I think the general format is right and my sense is that there is not going to be a final voting today. I do not have the amendments that I would like to propose ready. I have a couple. I think we need at least one (1) more deferral, if not more, but it depends. Now, the other thing I want to question or suggest is for our format today, I did not like the fact that there was not follow-up because it is really – and I think at the end of our meeting on August 5, 2013, that in the end you allowed some follow-up questions when there was one Councilmember questioning the speaker on a certain item and some of us wanted to follow-up. It was really helpful to be able to follow-up in that moment and you would have to depend on us to define follow-up narrowly. I think it would make for a better flow of questioning and understanding if we could do follow-ups, not just say ten (10) minutes and then go on. If somebody has a follow-up because they have already had their ten (10) minutes but they want to follow a line of questioning, I feel like that should be allowed.

Chair Hooser: The intent of the format was to allow the second ten (10) minutes for your follow-up. Yes, Councilmember Kagawa?

Mr. Kagawa: Thank you, Chair. I kind of disagree with Councilmember Yukimura. I think if I am in a rhythm of asking my questions, I think I want to be allowed to continue for my whole ten (10) minutes and Councilmember Yukimura could write down her question and when her ten (10) minutes is up, she would have her time to include that. I know she is talking about the flow, it is sometimes easier for us to understand, but I think we may end up not going through all of the agencies that we want to if we go through a process that really spreads our time to more than the structures that you had stuck to. I think that structure worked last time and we got out of here at a decent time and I hope to continue that.

Chair Hooser: Thank you. Other opinions on this so we can make a decision? Yes, Councilmember.

Mr. Rapozo: Well, I would agree. I think we should be allowed to give the entire time per Councilmember and we move on. Otherwise, it will extend this meeting longer than it needs to be and we do have a lot of people in the audience as well. We do not have other lives, but they do. So, if we could please accommodate the public by keeping this as time efficient as possible. Thank you.

Chair Hooser: Yes, Councilmember.

Ms. Yukimura: Hearing the two (2) gentlemen speak, I think that is right. Maybe what I was asking for was it seemed like we did our ten (10) minutes that we could not ask any more questions. But if you would allow after a Councilmember has finished their ten (10) minutes and if it is in the second round of ten (10) minutes, that is fine. I think. So that even though we have had our ten (10) minutes, we can ask follow-up questions. That would be, I guess, what I am asking for.

Chair Hooser: I will make a decision I guess. We will follow the format from last time and the second ten (10) minutes is the ten (10) minutes for follow-up questions and then I believe all of the people here today who will be asked questions are willing to meet separately with the Councilmembers should they need it. But I think that is the will of the Committee, I believe. That is the majority.

Ms. Yukimura: That is fine.

Chair Hooser: I understand you do not agree, I am just trying to – the public testimony may very well take us into the evening and the law provides that we have to allow everyone present to testify. We are just trying to run it as orderly as possible. Councilmember Bynum.

Mr. Bynum: I just thought the format last time went really well. It was fair and I defer to the judgment of the Chair.

Chair Hooser: Thank you. Yes, Chair Furfaro?

Mr. Furfaro: Committee Chair Hooser, I am not a member of your Committee, but I do want to just make a footnote that you did receive my absentee notice that I will be leaving today at 10:45 a.m. for previous commitment but I do intend to return by 1:00 p.m.

Chair Hooser: Thank you very much. Thank you. Yes?

Ms. Yukimura: I just want to say that last time's format allowed some follow-up questions in the second round.

Chair Hooser: Okay, thank you. So, we are going to move forward. Director Gill is still not here. Is Larry Dill here? Larry Dill is not here. So, we will then skip those two (2) gentlemen for now and move to – unless they are appearing magically at the door. No. So, we are going to move to the portion where the industry representatives are here and Councilmember Kagawa, would you like to ask questions to start with to anyone you would like? We will just follow the same format. We have...

Mr. Kagawa: I will defer for now. I was kind of looking forward to asking the Department of Health or the Department of Agriculture some questions.

PUBLIC COMMENT:

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Chair Hooser: Oh, I am sorry. Staff just reminded me that I forget the first six (6) public comment people. So, that will be eighteen (18) minutes there and I think that will allow time for others to come. We are going to do the public comment right now and if we can call the first speaker. This is a portion of the testimony that six (6) individuals can speak for three (3) minutes apiece and there will be no questions by our rules or no discussion with the speakers. First-come, first-served, and those speakers are already signed up. Staff, could you call the first speaker?

There being no objections, the rules were suspended to take public testimony.

SUSAN TAI KANEKO: Good morning Council Chair, Vice Chair, Committee Chair, and Councilmembers. My name is Susan Tai Kaneko and I speak on behalf of myself as a resident. For the record, I strongly oppose Bill No. 2419. I respectfully ask you to vote against this Bill for many reasons, but above all, because the Bill lacked the proper due diligence and input from a balanced representation of the community when it was first created. Though it is a thinly veiled attempt to discriminate against and damage the seed industry and other large farming businesses such as Kaua'i Coffee, it has thus far done more damage to the fabric of our community than anything else. We have heard this many times, the Bill's co-sponsors could not get enough information so they were forced to do this. But to say that they did not get satisfactory responses for whatever reason and yet they still moved ahead to introduce their Bill is to liken it to someone ask to perform a double bypass surgery having only gone through half of medical school with no residencies or practical training. They had only a small part of the necessary intelligence, yet recklessly moved ahead with a critical operation nonetheless. If this Bill is voted down as it really should be, the irony is that the co-sponsors killed their own Bill by inadequately researching and poorly thinking through the content and the consequences of their proposed legislation. In potentially putting out hundreds of employees out of work based on unproven accusations, I implore this Economic Development Committee and the whole Council to remember at the heart of Economic Development is creating jobs and strengthening existing jobs and businesses that operate legally in our County. With the Bill's weak foundation, it is hardly reasonable for the co-sponsors to expect our island to trust this Bill to solve anything especially above and beyond regulations and standards already studied and set forth at the State and Federal levels. We are in a vicious cycle, but we can break that cycle. All the stress and toil on the community and on you as the Council, could be avoided if the proper planning, research, and community engagement had been conducted, but it had not, but is also is not too late. Let us work together to craft a much better process by which community concerns can be properly addressed. Let us repair and rebuild our community. Let us have collaboration instead of collateral damage, dialogue instead of diatribe. When people are reasonable, that is when reasonable solutions can be reached. As I mentioned in previous testimony, let us not be prisoners to our past, but pioneers of our future. I respectfully ask that vote against Bill No. 2491

and guide us through a better process to bring our community back together as one. *Mahalo* for your time.

Chair Hooser:

Thank you, next speaker, please.

LEONARD SABALA:

Good morning Councilmembers. My name is Leonard Sabala and I oppose Bill No. 2491.

Chair Hooser:
especially.

Thank you very much. Thank you,

KATHY HASKINS:

Good morning Councilmembers. My name is Kathy Haskins. I speak as a resident and registered voter and I oppose Bill No. 2491. I hear proponents of this Bill talk about *aloha* and being *pono*, but from the other side of their mouths they say things that are not very *pono*. Referring to seed company employees, calling them ignorant locals, using statements like "she is better off dead" or "burn the witch." These do not exemplify righteous, honorable, or good, nor do actions of defacing public highways with graffiti or stealing petitions that are signed in opposition of this Bill. All of these things have occurred. They talk about the right to know, but when presented with guest speakers who tried to share credible peer reviewed science and the other side of the story, their responses are, "I should have punched you in the f-ing face when I had the chance and I hope you and your family get brain cancer." Some of these folks claim that scores of people are dying or sick, yet just last year they were complaining about the caring capacity of the island and whether Kaua'i is big enough to accommodate the rapidly increasing population, which is it? If this Bill pass what is next? A Bill to prevent the sale of pharmaceutical because the poor ignorant people could misuse them and poison themselves? All things consist of chemicals, even water is a chemical and even water can kill a human if you drink too much in too short of a period of time. Paracelsus, who is the founder of the discipline Toxicology said, "All things are poison and nothing is without poison, only the dose permits something not to be poisonous." That is where regulation comes in. This business is clearly regulated. People also talk about you folks being icons or Rockstars if you vote for this Bill and they forget how hard you work for proper legislation instead of sensational polices to gain votes. I have to tell you just personally, I have worked for three (3) of these seed companies. I have also worked for the Marriott Corporation and I have also worked for the Federal government. I have never felt safer working for anyone then I feel working for these companies. Their attention to the details of their business is amazing. Today, I heard someone in a red shirt talking to someone in a blue shirt and they said, "This is our island." Well, it is everyone's island. All of us folks that work for the seed company, it is their island too. They would not do anything to damage this island or their families. I have worked for these companies for years. I have never known a single person who has gotten sick. I do not know anyone's family members who have gotten sick. I understand that people want to know more about pesticides and pesticide use and educate themselves. People need to educate themselves. It is easy to be afraid of something that we do not understand.

Chair Hooser:

Thank you very much for you...

Ms. Haskins:

I will finish up by saying please kill this Bill and let us work together for co-existence.

Chair Hooser:

Thank you very much.

Ms. Haskins:

Thank you.

Chair Hooser:

Next speaker, please

KATIE JOHNSON: Aloha County Councilmembers. My name is Katie Johnson. I have lived on Kaua'i for eleven (11) years. I have a Master's Degree in social Work from the University of Washington and I am a Board Certified Diplomatic Clinical Social Work. I am also a Therapist in private practice. I am here today on behalf of Kaua'i's mental health providers who strongly support Bill No. 2491. We are very concerned about the eighteen (18) tons of Restricted-Use Pesticides (RUP) sprayed on our island and its devastating mental health effects on our children. RUPs are dangerous neurotoxins that have been proven to harm the structure and function of the brain creating irreparable life-long damage. They do increase the rates of Attention Deficit Hyperactivity Disorder (ADHD), Autism, developmental delays, behavioral disorders, learning disabilities, and declines in Intelligence Quotient (IQ). A multitude of peer review studies support these findings. For example, Virginia Rowe at Columbia University found that when children are exposed to chlorpyrifos prenatally, the structure of their brain becomes permanently altered, diminishing their memory, their language ability, and their emotional and impulse control. The National Academy of Sciences has published data stating that one-third (1/3) of all neural behavioral disorders, such as Autism and ADHD, are caused by exposure to pesticides and other chemicals. The Center for Disease Control has found that children with exposure to organophosphate pesticides were twice as likely to have ADHD. In 2012, a group of researchers from Mount Sinai Medical Center released a list of the top ten (10) types of chemicals most likely to be linked to the development of Autism. Organophosphate pesticides and organochlorine pesticides as endocrine disrupters are both on that list. Studies out of California, New York, and Minnesota all concur when mothers are exposed to pesticides during pregnancy, the risk of autism increased sharply. Another study in California, Central Valley, found that children whose mother's that lived within five hundred (500) feet of fields being sprayed were six (6) times more likely to be on the Autism spectrum. Three (3) studies released in 2011 concluded that pesticide exposure is responsible for seven (7) point reduction in IQ, reduced working memory, and reduced cognitive development in children. The Societal implications of reduced cognitive abilities are staggering. Dr. Ted Schettler, Director of Science and Environmental Health Networks, research shows that a shift of five (5) IQ points in the average IQ of a population of two hundred sixty million (260,000,000) people increases the number of functionally disabled by over fifty percent (50%) and decreases the number of gifted by over fifty percent (50%). We, mental health providers, know this data is real and it is of great concern. In light of vast amount of research that demonstrates the negative health, and mental health effects of pesticide exposure, the American Association of Pediatrics' recommendation to limit children's exposure to pesticides and what you have heard from Kaua'i's own mental health and health care providers, we humbly request that you support Bill No. 2491 in its entirety.

Ms. Caldeira:

Three (3) minutes.

Ms. Johnson:

Can I do my last sentence?

Chair Hooser:

Yes.

Ms. Johnson: This includes the Environmental Impact Statement (EIS) and moratorium. They are crucial for the protection of Kaua'i's children. Can I read the signatures of the mental health providers?

Chair Hooser:

Why do you not distribute that?

Ms. Johnson:
studies to submit as well.

I also have three (3) pages of peer reviewed

Chair Hooser: Yes, you can submit the peer review studies
and the list of mental health providers...

Ms. Yukimura: And the testimony.

Chair Hooser: That endorsed your testimony, I suppose
that that is what it is.

Ms. Johnson: Yes.

Chair Hooser: Thank you.

Ms. Johnson: There are sixteen (16) of us.

Chair Hooser: Sixteen (16)?

Ms. Johnson: Yes.

Chair Hooser: Thank you.

ROBERTA PUAKEA: Good morning Councilmember, Roberta Puakea, against Bill No. 2491. You must all be tired of hearing and reading all the information given and provided to you for review. My reason for being here is just to tell you how I feel about the things that I hear on the radio, read in the paper, as well as what I saw out in the public such as the Kaua'i Farm Bureau County Fair and the numerous sign waving events that were put on. Every citizen on this island is entitled to his or her own opinion and views. No one should be trying to cram their views down anyone else's throat. We should not be yelled at to go home or shown the middle finger at us or even the thumbs down sign. You do not have to wave or honk at us. It is your right, if you want to. It is as simple as all of that. From the very first day I was attended Kaua'i County Council meeting, I was approached and told, "What do you not know what *ahupua'a* means?" I wish I could have told him, "What do you not realize that I am Hawaiian?" I do know. On July 31, 2013 a little boy walked by me and said, "Look mom, they are wearing shirts that say "Proud to Be" and she finished the statement saying "Proud to Be Used." The next thing was when I heard that a seed company holding a training session for their employees the a public school on the West Side apparently had their training information taken from the school after it was discarded and then it was read on KKCR. They did not know what the training was about, but yet they made an opinion about what they had in their hands. They also reported that the seed company put out the teachers and staff from letting them prepare for the school year. That was not true. But I think the most outstanding event was the Kaua'i Farm Bureau County Fair. Save Kaua'i Farms had a booth. I saw a photo posted on Facebook with nine (9) anti-GMO individuals holding their GMO-free zone signs, nine (9) to be exact, posing in this booth. If they feel so strongly about this Bill, why is one of them covering their faces? The Facebook page is called "Save True Kaua'i Farms." Why are they being so childish? This Bill has brought the division not only of land, but the people as well. This is supposed to be the land of *aloha*. We should be working together, united, not fighting against each other. I am sad and hurt that we have allowed others to come and dictate to us what we should and should not do.

Ms. Caldeira: Three (3) minutes.

Ms. Puakea: I asked the County Council before not to let fear be the leader in this decision. You know as well as I do, there will be no end to this Bill because of poor way it was introduced. There is no good outcome for either side and yes, we deserve the right to know all pesticide use, all. Thank you.

Chair Hooser:

Thank you very much. Next speaker?

TARYN DIZON: Aloha Council Chair, Vice Chair, and Councilmembers. I speak on behalf of myself as a resident and a registered voter. My name is Taryn Dizon and I strongly oppose Bill No. 2491. Not only is this Bill written to attack one of the largest industry employees on the island, this Bill indefinitely divided the island including family and friends. Everyone has a right to their view, their opinion, and it should always be respected. Councilmember Hooser, when you introduced the Bill on June 26, 2013, why did you not call for a peaceful campaign? Five (5) hours after I testified on June 26, 2013, I received over one hundred (100) ridicule comments including death threats, cancer threats, and even people wanting to know where I live. Did you blog for peace? Instead you endorsed their behavior and blogged that the plantation workers are too uneducated to understand what is right from wrong. As a resident, I perceived that blog as defamation to our plantation workers who are not governed by the Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) as OSHA is new and was born in the 1970's. Daily, I hear we are killing kids. In fact, kids are saying that we are killing kids with no data behind that statement. Data shows that skateboards are dangerous and we recently lost a teenage boy who was riding a skateboard. Yet the opposition was here yesterday with their kids riding skateboards all over County property with no helmets on their kids. Then let us look at the facts for chronic breathing. I was raised with Kekaha and have asthma. It was only aggravated by the days that we had Hawaiian Snow and when the winds from the south. My kids who also reside in Kekaha have asthma and they are only aggravated when we have Kona winds and lately it has been more than usual. In closing, I would like to remind the Economic Development Committee and the whole Council that the Charter is to create jobs and to strengthen existing jobs, that is your duty as we have elected you folks. Thank you for your time and this opportunity and please stick to the data when you make your decision today for Bill No. 2491. *Mahalo*.

Chair Hooser:

Thank you. Another speaker, please?

Ms. Caldeira:

That concludes our public comment.

Chair Hooser: That concludes the public comment and the reference to my blog, point of personal privilege, if I might? If someone has a copy of that, I would love to see it because I have never made comments referring to uneducated people on the West Side. It is difficult when you are in a public position and we cannot respond to every comment that is made, but I felt compelled to respond to that particular one and I would love to see any evidence of that at some point because I do not believe it exists. Thank you very much. That concludes the initial public portion.

We are going to ask Director Gary Gill, from the Department of Health. Thank you very much, Deputy Director Gill. We are going to...if you want to just introduce yourself. We invited you here to talk about obviously Bill No. 2491 and the Department of Health's...what role you might play in terms of pesticides and GMO and that kind of thing, and then we will have questions. Very brief, we are not really offering presentations, but maybe a brief introduction, and then

Councilmember Kagawa. We will go around the room and ask questions. So thank you very much for taking the time out of your busy day and flying over here.

Bill No. 2491

A BILL FOR AN ORDINANCE TO AMEND THE KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW ARTICLE 22 TO CHAPTER 22, RELATING TO PESTICIDES AND GENETICALLY MODIFIED ORGANISMS

[This item was deferred to September 27, 2013.]

GARY GILL: Aloha and good morning, I am Gary Gill. I am the Deputy Director for Environmental Health for the State Department of Health. I was asked to be here as a resource, so I am happy to answer any questions you may have. Just to put it into perspective, the Environmental Health Administration, for which I am the deputy, handles a wide range of environmental protection and public health programs, everything from restaurant inspectors, and food and drug inspection, asbestos, noise, radiation, indoor air quality to the Environmental Protection Agency Programs of the federal government: clean air, clean water, safe drinking water, solid and hazardous waste. We do emergency response to oil and chemical spills, and hazardous waste clean-ups, superfund sites, and I also oversee the state laboratory. So that is just a few things that we do. And I would be happy to...I could go on at length, but I would rather just answer whatever questions you may have.

Chair Hooser: Thank you very much, and I would be remiss if I did not express Dr. Bal's regrets for not being here. Dr. Bal is the District Health Officer for the Department of Health, who is in India right now and sends his regrets. Thank you. Councilmember Kagawa.

Mr. Kagawa: Thank you, Chair. Thank you, Mr. Gill. How many employees does the Department of Health here on Kaua'i have to check on health complaints from the public? Environmental conditions like soil testing, water testing? That is why this Bill is here, because there are concerns that not enough is being done when people have complaints about their health from spraying, airborne pesticide spraying at night, or what have you, and in the morning they feel dizzy or nauseous. They feel like if they call the Department of Health, it takes maybe three (3) months for them to get a response, when their symptoms are gone. So, I want to know how many employees are here on Kaua'i, what kind of backgrounds do they have at the present time?

Mr. Gill: Thank you for that question. I did not come prepared with a full roster of who we have on our staff. As you know Dr. Bal, the District Health Officer, has a number of Department of Health employees under his control. From the Department of Health on O'ahu, we have our Environmental Management Division Programs, one, as you know, our Clean Air Program. That position is currently vacant. We do have a Clean Water Inspector here, and there is a number of Vector Control Officers, and other Public Health specialists here on Kaua'i. I would have to get you the actual total numbers. I do not have that in my head.

Mr. Kagawa: I guess if I could get that at a future time. We, myself and Councilmember Rapozo went up to meet Governor Abercrombie, Chief of Staff Bruce Coppa, and he mentioned that he would be willing to maybe add some bodies to the Department of Health and the Department of Ag to step up, I guess, their game...

Mr. Gill:

Sure.

Mr. Kagawa: ...on the island, and in order for us to ask what more we need, we need to know what we have.

Mr. Gill: Right. Well, it is no secret to anybody that Rod Yama's position—Rod had been here on Kaua'i for many years—he retired and we are having trouble filling that position. Unfortunately, as my update as of about five minutes ago, before I walked into the room, we still do not have an applicant for that position. Maybe it is a little intimidating for the average person to do the kind of work that Rod was tasked to do. So we are searching for an applicant to fill that vacancy.

Mr. Kagawa: Okay, I will go on to the next question. So if we could get that info at some later time, and so not only to respond to health complaints and to see if it is directly related to any maybe seed company's pesticide use, but also the soil and clean water testing. How much people are on that? How often do they test? Is there baseline information that has been made?

Mr. Gill: I can answer some of those questions right now.

Mr. Kagawa: Okay, go ahead, real quick.

Mr. Gill: So one thing that happened at this most recent legislative session is the Legislature passed a resolution asking for the Department of Health to investigate the occurrence of atrazine in Hawai'i. So we are following up right now on that resolution. We are beginning by looking for all the data that we can find that has been collected historically. We are looking back into the 1980s, as far back as that where a number of studies were done for atrazine, primarily, almost exclusively, on sugar cane fields at that time. So we are collecting that data. We have some baseline understanding. Atrazine does exist in groundwater, in small amounts, mostly related to sugar plantations. For example, the highest concentrations that we found are on the Big Island in Hilo, where a lot of it was used. About 95% of the atrazine currently being used in the State is being used on Maui on the sugar plantation there.

Mr. Kagawa: Can I stop you right now?

Mr. Gill: Sure.

Mr. Kagawa: I guess the way that you would set up the baseline is to determine what level you found of atrazine and to test after that?

Mr. Gill: Sure.

Mr. Kagawa: Then if there is a difference or a spike, then you can attribute it to probably something new, right?

Mr. Gill: Initially it looks like the atrazine levels that are detected are actually going down because a lot less atrazine is currently being sprayed in Hawai'i than was previously under the plantations. But we are, in addition to doing the data study to determine what levels have been monitored or found over the past 20 or 30 years, we do plan to do baseline studies for actual sampling across the state, and we are putting together resources. We are getting funds from United States Geological Survey (USGS) and the Department of

Agriculture, along with our Emergency Response funds in the Department of Health. We hope to be testing stream water, soil, and groundwater across the State to get a good snapshot, a baseline as you are suggesting, for what the conditions are for atrazine and other pesticides throughout the State.

Mr. Kagawa: That sounds good, Gary. I think what the people of Kaua'i want long-term is that they want to make sure that when the seed companies are done, that the soil and the water are not going to be dead. I think hopefully that is the kind of information that you can provide when those tests are done.

There are many testimonies coming in from the medical community, and it kind of disturbs me that they are coming to the Kaua'i County Council. We have no medical experts, like yourself, that can really tell them that it is fact or that it is fiction, but your office has the medical experts and the scientists that can say "what you are seeing here, the increase in cancers, the increase in whatever, it is related," and I think the public can place reliance on that. But you have experts that can make that determination. We are basically...we have no expertise. Has the medical community been bringing forth this information? Is there a large body of testimony coming into the Department of Health saying that, especially on the west side, they feel like there are health detriments because of the seed companies' operations?

Mr. Gill: We have heard those concerns, some of them. I want to be clear, I am not a medical professional, I am not a doctor and neither am I a toxicologist. My job is to try and translate that science and that information into common terms that people like me can understand and hopefully then the rest of the community can as well. We have heard concerns, and we have investigated concerns of cancer clusters on the west side of the island. As is usually the case, there is a cancer registry, and when we look at the data...when the university folks who run the registry look at that data and investigate, they have reported to the community that they cannot find any cluster of cancer in the data that we have anywhere on Kaua'i.

Mr. Kagawa: What about the...I think asthma was another one, high risk of asthma among children?

Mr. Gill: Right, I am not sure that asthma is reported. It is not reported to my part of the Department of Health. We can look into that, but I do not think we have any hard data that substantiates that kind of impact here. We are also looking at birth defects which have been raised.

Mr. Kagawa: Gary, you kind of answered the question. I think the medical community, a lot of the ones on Kaua'i, the physicians practicing on the west side, a lot of them that are for this Bill are saying that they are seeing a large number. I think they need to go to you guys because you guys are not seeing those spikes in the data that you have. I think we have just have to...as policymakers, we are trying to decipher what is fact and what is fiction. I would rather have a referee to determine, like your department to determine what fact is and what fiction is. I encourage the medical community to go to the Department of Health. Bring your information to them, so we can have some kind of determination as to what is fact and what is fiction.

Mr. Gill: I would be happy to sit down with doctors or folks in the medical community or set up appropriate meetings with people in the Department of Health with that.

Mr. Kagawa: Do I still have time to ask another question? How long does it take for the Kaua'i Branch to respond to a complaint? Am I done? Two minutes. Say a complaint comes in from the west side saying that they just sprayed today, my eyes are red, I feel like throwing up. They call the Kaua'i Branch and they say I want this situation investigated.

Mr. Gill: I cannot tell you for sure. I would have to look at the data and we would have to determine it probably differs from complaint to complaint, depending on the nature of the complaint. I do not know if there is a single time that I could say that it takes an hour or a day or a week. I frankly do not know. It depends on the issue. I can tell you that the Department of Health, my Environmental Management Program does keep track of complaints. I can tell you we get thousands of them every year, and we respond with thousands of investigations. Dozens of those investigations turn into enforcement actions, where we actually put a case together and I can show you the number of dollars that we actually collect in those enforcement actions. I would suggest to you it is quite clear that if we receive a thousand complaints, there is no way that we can respond in person to each of those.

Mr. Kagawa: Last question, is it really costly to have air...to gather data from dust and pesticide drift? Like an air quality sampler? Is it an expensive process for the Department of Health?

Mr. Gill: The Department of Health monitors air on a regular basis and that information is available online in real-time for the things... for Kaua'i, we have an air monitoring station.

Mr. Kagawa: And they detect pesticides and identify?

Mr. Gill: So what we are looking for in those monitorings are the standards that are set by EPA, national standards for small particulates which includes dust or ozone or carbon dioxide and things like that, that require compliance with National Air Quality Standards. If you are talking about a specific study as was done on the school in Waimea, that study took a few hundred thousands of dollars to do that was paid for by the Department of Agriculture, so that would be a baseline if you are looking for something on that point, that kind of particulate.

Mr. Kagawa: Thank you very much, Mr. Gill. My time is up. I just want to thank you for showing up, showing that you care for the island. You may not have had all the answers that I wanted, but I am glad that you are here. There are a lot of Kaua'i State people that I wish were here also. Thank you.

Mr. Gill: Thanks for your questions, happy to be here.

Chair Hooser: Thank you, Councilmember Rapozo.

Mr. Rapozo: Thank you, Mr. Chair, and thank you, Mr. Gill, for being here. Let me say that the study was not simply funded by the State. The County of Kaua'i, in fact, initiated that.

Mr. Gill: Exactly, yes, thank you.

Mr. Rapozo: The answer I got from the State was sorry, we cannot help you because we do not have the money, so let us at least set that.

Mr. Gill:

Thank you for that correction.

Mr. Rapozo: And let me apologize up front if I offend you in any way as I go through these questions. We had the State Department of Agriculture up here a few meetings ago, and I do not know if they went back and told you they got verbally assaulted by myself, but it is because I am very concerned that we are here today because the State has failed. That is just the reality of it. I mean no disrespect, but that is why we are here today, because the State has failed. Walk me through the process of the Department of Health when a complaint is filed. This is the same question I asked the Department of Agriculture. Someone calls up, like Mr. Kagawa said, and says, "Hey, I think I have some pesticide issues. I live next to the field, and my eyes are burning. My kids are vomiting." What happens in that case?

Mr. Gill: Well, I think first of all, whoever has called in that complaint will be referred to the appropriate person in the Department of Health?

Mr. Rapozo:

Which would be?

Mr. Gill:

It depends on the nature of the complaint.

Mr. Rapozo: complaint was.

I just told you what the nature of the

Mr. Gill: If in fact somebody is having acute medical response to something in the environment, then it is probably the first-responders that are going to show up. So that is going to be referred to the Police or the Fire Department or the ambulance.

Mr. Rapozo:

Right, correct.

Mr. Gill: The Department of Health would respond depending on the nature of that complaint. If it is an odor complaint from arguably, possibly from a pesticide, we would likely...one of our staff is likely to get on scene and respond and collect data. Often in the instance that you issued or suggested here, by the time somebody shows up, even if it is 30 minutes later, that odor or that irritant may no longer be there, and there is no simple kit that sniffs the air that tells us what that is. So we would have to do an investigation to determine what that source may be.

Mr. Rapozo: that would ensue?

Okay, and what is the investigation process

Mr. Gill: First we would have to determine whether there is something to investigate, that effects State law, but then our employees would be on scene. For example, if there is a chemical spill, which we can identify as the source of the irritant or the hazard, what may happen in that case is that we would have to bring in our contractors or our emergency responders to control the site, and to evacuate the population.

Mr. Rapozo: That is an extreme. Let us say it is spraying in the fields near this house or school, and...I went through the exercise with the Waimea Canyon one and I was not satisfied at all. But I am trying to figure out where does the Department of Health come into play? You said that your staff members would be here, but do we even have any here that would investigate?

Mr. Gill: Depending on the nature of the complaint.

Mr. Rapozo: The one I just talked about.

Mr. Gill: We do have staff that is here, so...

Mr. Rapozo: Are they at a capacity that they can go out and investigate? And I am talking about a misuse of pesticides? Because that is what the allegations are. The allegations are that these companies are spraying way more than they should be; they are allowing drift when it should not be, and that is what I am saying. Where does the Department of Health fit in?

Mr. Gill: Okay, good, thank you for that question. That is something I might have said at the beginning, but I will have a chance to respond. So when it comes to pesticides, the Department of Health has two (2) primary functions where we regulate pesticides. As you know, I am sure you have been through this, the application of pesticide is governed by the Department of Agriculture, not by the Department of Health.

Mr. Rapozo: Okay.

Mr. Gill: We regulate pesticide and contaminations in drinking water.

Mr. Rapozo: Okay.

Mr. Gill: We have years and years, decades of data about the quality of your drinking water, and each of you who are drinking water from a regulated drinking water source gets a report every year about what was found in your drinking water. Furthermore, when we find anything that triggers an investigation, under law we have to put out a press release. So there is a lot of transparency and clarity about what people drink.

The next thing that we regulate in terms of pesticide is pesticide residue in food. Every month my staff goes out. It used to be more often, but with cutbacks, all we can afford is once a month. We take a random sample of produce. It could be locally grown bok choy or lettuce or basil or what have you, and we run that to the lab to test for pesticide residue. There are action limits for a wide range of chemicals on a wide range of vegetables, and we identify whether or not the pesticide residue on the food that we eat meets those standards.

Mr. Rapozo: Okay, I do not want to interrupt, but I do not want to get into that. I am talking more specifically to...

Mr. Gill: Right, the point of the question is if somebody gets sick, they go to the doctor; they do not come to the Department of Health.

Mr. Rapozo: Right.

Mr. Gill: If somebody has a nosebleed or they are upset or they are vomiting or something, they need emergency care. They do not come to the Department of Health.

Mr. Rapozo: And you have received no complaints. You said earlier you received thousands of complaints from the public.

Mr. Gill: That is broadly Statewide, thousands of complaints in a wide range of anything from polluted runoff to air.

Mr. Rapozo: So if a resident on Kaua'i calls the Department of Health because they suspect pesticide poisoning or pesticide drift, you would refer them to the Department of Ag?

Mr. Gill: Most likely that would be the case. The Department of Ag is the one who would be regulating the application of pesticides.

Mr. Rapozo: Okay, what happens if there is residue or pesticide in water?

Mr. Gill: Which water? In drinking water, stream water, ocean water?

Mr. Rapozo: Drinking water, yes, drinking water.

Mr. Gill: All drinking water in the State that is regulated under the Federal Safe Drinking Water Act, and this is every water system that serves 25 people or has 15 service connections. It could be a public system, and it could be a private system. For example, up in Princeville, it is a private system.

Mr. Rapozo: Let us use Kekaha or Waimea.

Mr. Gill: Okay, Kekaha or Waimea, I believe, is on your Board of Water Supply System. So they are regulated by the Department of Health.

Mr. Rapozo: Right. What happens if there is a trace of or residue of pesticides in the water? Where does the Department of Health...what is their role?

Mr. Gill: We make sure that the water being delivered to people who are drinking it meets all the federal standards. So there may be traces of pesticides and this is a serious issue obviously. We have been struggling with it for decades. We are still seeing, especially on O'ahu in central O'ahu aquifers, pesticide residue showing up in drinking water from chemicals that were banned decades ago. So the Department of Health takes—this is one of our main missions—we take this very seriously. We require that the Board of Water Supply in that case actually filter. They have carbon filtration to take out any of those pesticide residues before that water enters the public drinking water system. So they clean it up at the wellhead. All of those samples need to be regularly taken, at least quarterly. Sometimes if we find a trace of an illegal pesticide that should not be in there, we might require weekly testing to assure that rate is controlled and is not actually getting into the drinking water.

Mr. Rapozo: I am not talking about illegal pesticides. What if you find legal pesticides in drinking water?

Mr. Gill: Pesticides are legal. It is the amount. There is a maximum contamination amount.

Mr. Rapozo: I understand, but is the treatment of illegal pesticides the same as legal pesticides?

Mr. Gill: There should not be any illegal pesticides.

Mr. Rapozo: I am only saying that because that is what you said. You said if there are traces of illegal pesticides in the water, and that is why I brought that up.

Mr. Gill: Okay, so what I meant... Okay, if I was not clear, let me try to make it clear. There is a legal threshold of pesticides allowed.

Mr. Rapozo: Right, okay.

Mr. Gill: Okay, so for example, for atrazine it is 3,000 parts per trillion.

Mr. Rapozo: Right.

Mr. Gill: We might find atrazine at less than 100 parts trillion. Less than 100 parts is legally allowed because it does not reach that threshold.

Mr. Rapozo: Is there any attempt by the Department of Health to find out where that is coming from?

Mr. Gill: Absolutely. We have a wide range of groundwater protection programs, wellhead protection programs, we trace everything from nitrogen nutrient, which is likely from fertilizer, to a wide range of the alphabet soup of pesticides that have been used historically.

Mr. Rapozo: I know my time has got to be running up. I want to just ask this last question. The 10 minutes go by really quick my friends. Chapter 149A, which governs the pesticide use and it is really a Department of Agriculture function, but in one section which is the Cancellation or Suspension of Pesticide Uses, it is clear that the Department of Agriculture with the approval of the Director of Health can basically cancel or suspend any pesticide permit, and it is clear when residues of the pesticides are detected in drinking water. Has the Department of Ag ever approached the Department of Health to consult with the possibility of suspending or canceling a pesticide use permit?

Mr. Gill: Not in my experience. I would have to check to find out for sure.

Mr. Rapozo: How long have you been there?

Mr. Gill: I have been doing this job since the beginning of the Abercrombie Administration and I did this job for four (4) years in the second half of the Cayetano Administration.

Mr. Rapozo: So about seven (7) years.

Mr. Gill: All together.

Mr. Rapozo: Okay, that is all my time. Thank you.

Chair Hooser: Thank you.

Ms. Nakamura: Good morning, Gary, good to see you.

Mr. Gill:

Aloha.

Ms. Nakamura: I wanted to ask if you were aware of Dr. Carl Berg's sampling of groundwater around the island and using a sample kit detected atrazine in some of the stream waters on Kaua'i?

Mr. Gill: I am certainly aware of Dr. Carl Berg. He does some contract work for the Department of Health and has been very active with the Surfrider Foundation here on Kaua'i. I see him and consult with him often. I am not sure of the sampling that he may have done...

Ms. Nakamura: He was here about a month ago and said that he had done some sampling using some test equipment and was able to detect levels above EPA levels. What would be your response to something like that? Have you received that data from him?

Mr. Gill: No, not that I am aware of. We have contracted with Dr. Berg to take some samples but not for atrazine samples. I am not aware of what that data is. I would be really cautious commenting because this is like third-hand information.

Ms. Nakamura:

Right.

Mr. Gill: And he is usually pretty controlled and precise in what he does. So I would rather hear it directly from him as to what he has found.

Ms. Nakamura: Yes, yes, okay. I think that is a really important follow-up and I am happy to hear about the study the legislature requested on collecting baseline information. You said that this was for atrazine and other pesticides? Are you able to share the other pesticides that are also going to be studied?

Mr. Gill: At this time we are just putting that sampling study together, and it has a lot to do with the cost, what you look for and how much you have to pay for each of those tests. There is a broad range, a broad spectrum of pesticides that can be identified with a certain test because they are part of a family of pesticides, so I cannot list what those may be. My point to my programs was, although the legislature tasked us to look at atrazine, I need to anticipate what the next question is because we already have a lot of information on atrazine. So as soon as we get the atrazine data, I am sure somebody will ask what about carbaryl? What about this whole long list of other things that may be out there? So we are going to try and look for as much as we can afford to look for with the initial screening money that we have put together.

Ms. Nakamura: Can I ask how much was allotted for this study and when do you expect it to be completed?

Mr. Gill: Well, nothing was allotted for this study at the legislature, which is why it is a challenge for us to put this together. I do not want to go into great detail on it, but five cents out of every imported barrel of oil goes to my Environmental Response Revolving Fund, and it is nearly bankrupt. The good news is we are using less oil; the bad news is I get less money to do the work I need. I am supposed to have up to twenty million dollars (\$20,000,000) in that fund to respond to emergencies. On an annual basis at the end of the year, I might have about one million dollars (\$1,000,000). This is the money that we used

to begin the clean-up on the North Shore at Kilauea, the clean-up that we did with the EPA up there. We basically could not afford to do that on the State nickel. We had to call the feds in do it. So I have very little money in that fund, and we have been asking the legislature to bring in more. So the long way of saying that we are putting in \$25,000. I think we are getting \$20,000 from the USGS, and the Department of Agriculture is chipping in some. So we will have about 60...maybe \$70,000 to do this Statewide screening, and we will stretch that as far as we can. But there is no specific appropriation for it.

Ms. Nakamura: And I think that is the kind of hard data every community needs to have to give its residents some feeling of confidence that we are looking at it and monitoring the situation.

Mr. Gill: And again, we have all of that data and it is all available for drinking water. What we are lacking now, really, is a comprehensive assessment of environmental data: groundwater, stream water, and soil.

Ms. Nakamura: So the soil and the stream water.

Mr. Gill: Yes.

Ms. Nakamura: When would you like to complete this study by?

Mr. Gill: The initial screening of the data search that we are doing, looking at the historical data of atrazine and other chemicals, we should have that together by October. That is what the resolution calls us for. So hopefully at least by the end of October. The additional data of actually screening/testing of groundwater throughout O'ahu or throughout the State will probably take us into the middle of next year before we can put all of that together.

Ms. Nakamura: So let us say mid-2014.

Mr. Gill: Yes, probably around June or July, I am hoping at this point.

Ms. Nakamura: Was that my ten (10)? Oh that was my five (5), okay, thank you. And once you get the data from the study, the baseline study, and I suppose you have different areas you will be testing on Kaua'i?

Mr. Gill: We do not have the sample locations yet. Frankly, what I want to do is identify locations where we can test during or immediately after the application of pesticides. Obviously these things decay in the environment or they get diluted. So we are trying to get samples of the worst-case scenario of what we can find right after or during the application time. So where that might be depends on where the application is taking place and that is something that we will have to work together with the applicators to identify.

Ms. Nakamura: So you are working with the Department of Agriculture?

Mr. Gill: Yes.

Ms. Nakamura: Pesticide Division?

Mr. Gill: Yes.

Ms. Nakamura:

And the applicators themselves?

Mr. Gill:

We are just beginning to in terms of putting that sample...the actual sampling data collection plan together.

Ms. Nakamura:

Okay, that is good. If there is information that comes out of the study that shows that there might be some areas of concern, if levels of pesticides might be higher in certain streams or in groundwater and so forth, would the State be willing to increase the minimum acceptable levels allowed?

Mr. Gill:

The contamination levels that are allowed are based on science, the best science that we have, toxicological science. This is a moving target. Those numbers are often adjusted downward over time. You have heard lots of testimony about endocrine disruptors or the possible impact of two (2) different chemicals put together even at low levels may amplify the impact. The science is out there and evolving. When we set a maximum contamination level, it cannot be based on whim or a popularity contest. It has to be based on science. We are required to do that by law. We also have to consider the practical impacts. An example, I would say...I do not want to raise any more concerns, but people have raised concerns and it has been in the media about chromium in our drinking water. Erin Brockovich in the movie made that pretty popular. I will tell you that Kaua'i has some of the higher levels of chromium in their drinking water. There is no industrial source of this chromium. It comes as a dissolved metal in our drinking water and Kaua'i's soils are older than the rest of State, and so you actually have higher levels of these metals naturally in your drinking water. California just set a lower health goal for chromium 6, and this is just an example of how these things evolve over time. But there is no known source, industrial source, of chromium contamination anywhere in Hawai'i. But you will find a small amount of chromium naturally in our drinking water.

Ms. Nakamura:
the legislature introduced this Bill?

Thank you, and just out of curiosity, who in

Mr. Gill:

It is a resolution. I think Representative Thielen was one of the champions for the resolution that we are responding to.

Ms. Nakamura:

Was that Laura Thielen?

Mr. Gill:

Cynthia, the mom, Mama Thielen.

Ms. Nakamura:

Thank you very much.

Mr. Gill:

You are welcome.

Chair Hooser:

Thank you, Councilmember. Before we move on, it was pointed out to me that I should remind everyone to be respectful in the audience, not because of Mr. Gill here, but for every speaker. If you are making faces or body language, that kind of stuff, it is picked up on the camera and it is just not polite, so please be respectful. If you leave the chambers, please inform staff downstairs, so someone else can take your seat if you are going to be gone. So thank you very much. Thank you, Mr. Gill. Councilmember Yukimura.

Ms. Yukimura:

...enough time for Jay?

Chair Hooser: 10:30, you wanted, right? You wanted to speak at 10:30 a.m. or do you want to speak now?

Mr. Furfaro: As long as it is before I leave.

Chair Hooser: Okay, go ahead, Council Chair Furfaro.

Mr. Furfaro: Thank you, Chair, and thank you, Councilwoman, for yielding some time to me.

First of all, let me thank you for being here. I want to also let you know that as a Kīlauea resident, I appreciate the work your department did at the Old Kīlauea Sugar Mill. But Mr. Gill, I just wanted to take this time to bring you up to date on some correspondence that I have had, so that I can share this openly with the other Councilmembers. You can take some time to digest it, and if you can encourage those that I have written to for some responses. Some of my correspondence goes back all the way to the 25th of July, and I still have not heard from a few people.

First of all, I want you to know and I will just go through this briefly, I have written to Senator Schatz asking him for some help on the evaluation of the pediatricians' video that was presented on their research recently on some of the concerns that the Kaua'i pediatricians have raised. I gave him the address for that particular website.

I have also written to our Congresswoman Tulsi Gabbard and asked if she would encourage some of the federal people from the Pesticide Division and so forth, to look into some of our concerns that were recently brought up, especially as it relates to the Waimea Canyon School.

I have also written to the Governor, and I have highlighted the points that I want to share with you because you made that comment earlier. If there is anything that you could do to coordinate a meeting with the Governor, with yourself, the Health Department, as it relates to the teachers out on the west side at Waimea Canyon School, I am hoping that I can encourage that. Now I understand that there were some administrative changes in the past, there were some staffing changes, but I am asking the Governor if he could not step forward and re-implement some of those previous staffing issues.

I also flew to the Big Island to meet with the head of the Agricultural Department, Mr. Kokubun, and I had asked him if he could participate in that meeting as well with the Governor with people on the west side. I did also meet with him on some of the concerns raised by pollinators from the bee community as it relates to the management of bee pesticides. It was a constructive meeting, but I still have not heard from the Department of Agriculture on my questions.

I sent some questions over to the Attorney General asking for some interpretations as to some of the legal structure here about whose *kuleana* and what laws are there in particular. Since a lot of the pest control rules and regulations are applied downward to the State from the Federal government, what kind of relationship exists between the Federal government and the State on those issues for pesticide control?

I wrote to all of our Representatives, Senator Kouchi and all of our House people, asking for them to make a great effort in this next session about pesticide enforcement and staffing. There are two (2) letters of correspondence accordingly from me to all of those in the State Legislature.

I also did a cost analysis with the Engineering Department as it relates to the cost in this Bill and what financial impacts it would have for the County of Kaua'i. There is a breakdown here for you as well. The worksheets are there along with the specific question because we do not have a Department of Health; we do not have an Agriculture Department.

I did write to Mr. Steven Bradbury from U.S. Environmental Protection Agency, who is the head of the Pesticide Programs, and he did respond to me and is willing to have a conference call with me in the very near future, and we could share that date with you and make it a three-way call, if you would like.

Also the Deputy Administrator of APHIS and I am really concerned that people need to make a real effort here in helping us, *kōkua* with us, to see if we can come to some common goals here about resolving this. I am going to give you an entire packet of my correspondence, Gary, and we can talk later because the Committee Chair has given me a few minutes because I depart at 10:30 a.m. today.

Also, I want you to know I am going to share with you that I have, through the Public Information Act, solidified all of the spraying documents as it relates to the Waimea School. I consolidated them on a worksheet as such, naming which pesticides, at what number field, at what dates and times, and I am going to be sending you some correspondence asking if you can have some people to please evaluate this for us. There were some fields, after I put together my worksheet here, that in a 7-day period got sprayed three (3) different days, and I am just wondering who is keeping track of this? Who is watching this as it relates to what is the minimum application requirements and is this successive? I do not know; I went to hotel school. But I will tell you in my business when it comes to reviewing this material, I know exactly how Material...MSDS sheets are used for housekeepers. I think the same rule applies here, and I also believe that some of this information should be made available to the public because it is made available to the workers. I covered those kinds of questions in this. So watch for my summary sheet on this spraying. It has taken a while to put it together, but nobody got to a wrong answer because they had too much information, and that is what I am trying to put together here.

On that note, Mr. Hooser, I am going to have the staff pass out the similar correspondence to all the members since I have disclosed it now. And Mr. Gill, I will give you your copy.

Mr. Gill:

Thank you very much.

Mr. Furfaro: Thank you very much for being here, and Mr. Hooser, thank you for the courtesy you extended me.

(Council Chair Furfaro was noted excused at 10:20 a.m.)

Chair Hooser: Thank you, Chair Furfaro. We have a long day ahead of us, and there is obviously leeway given that members can use their 10 minutes how they see fit, but let us move forward, and there is a lot of people to talk to. Councilmember Yukimura.

Ms. Yukimura: Thank you. Gary, thank you for being here and for your very informed answers to the questions. I also want to say I appreciate the Department of Health's committed follow up on the Legislature's atrazine resolution. That will be very helpful information.

First about your Dust Inspector Position, because you said that since Rodney Yama has retired there is no one to fill that position, I just want to say...because this is seen, as Councilmember Rapozo says, by thousands or did you say millions of people that if there is anyone on the island who might have qualifications for a Dust Inspector, they should apply for this position.

Mr. Gill: Please do. It is an Environmental Health Specialist position in the Clean Air Program.

Ms. Yukimura: Environmental Health Specialist position in the Clean Air Division, okay. A couple of questions about dust because pesticide-laden dust could be very dangerous, presumably. Without an inspector, how are you currently enforcing your dust regulations?

Mr. Gill: Well, probably badly. Obviously if we do not have someone to do the job, it is hard for us to respond to complaints. All that we can do is send someone else from our programs, it might be our Clean Water Inspector out there. We do cross train our employees. For example, if we have a dengue fever outbreak, I have to have my restaurant inspectors working on it because I do not have a Vector Control crew anymore. So we do the best we can, but obviously without staff on the island, our response is going to be less than it should be.

Ms. Yukimura: Even if you had an inspector, apparently agricultural operations are exempted somewhat from dust control.

Mr. Gill: No, no, we have a Dust Enforcement Case on Moloka'i, for example, where we imposed a \$40,000 fine to an agricultural entity on Moloka'i for a dust violation.

Ms. Yukimura: Okay. Do you work with the USDA on soil conservation practices as well in dust enforcement?

Mr. Gill: Yes, we do, and historically the Department of Health has put \$250,000 a year into funding conservation specialists on each island to encourage agricultural entities to do soil conservation work. As I said, because of the shortage that we have in our Environmental Response Fund, as of the end of this year, we are discontinuing that. So the Natural Resource Programs of the federal government do provide Soil Conservation Districts to provide that kind of technical assistance to farmers. They all should have a Soil Conservation Plan.

Ms. Yukimura: Yes, but my understanding is that they have had a Soil Conservation Plan only on the things that they want to have a soil conservation plan on. It is very client-oriented and not very regulatory.

Mr. Gill: No, it is not regulatory, and that is the history of the program dating back to the dust bowl in the 1930s, where they are cooperators. That is the name of it. They cooperate. It is not a regulatory program. It is a service to encourage farmers to conserve soil.

Ms. Yukimura: Okay, but if in the regulatory process we would want to require soil conservation best practices, it could become part of a regulatory schematic, could it not?

Mr. Gill: Well, actually I should elaborate a little bit because there is regulation involved and the County is involved with grading permits. So the way the process works, just generally, any time you move soil, the County needs to issue a grading permit. There is an exemption in the State law from getting a County grading permit if, in fact, you have a soil conservation plan approved. So there is a role that this County and every County can play in enforcing the grading permit ordinances that do exist as a way of encouraging that soil stay in place on farms.

Ms. Yukimura: I appreciate your comprehensive awareness or knowledge of the system. The regulatory process will work only if the soil conservation plan is comprehensive in its nature, and I do not know yet whether that is done.

Mr. Gill: It is difficult know, as you have mentioned, the nature of the conservation plan because this is held as proprietary by the farmers and the agencies that are supporting them and drafting it. That is frankly one of the reasons why we also, aside from running out of money, is we could not show the results of the \$250,000 that we were putting into that program, because the farmers would not give us the conservation programs that we were funding.

Ms. Yukimura: I have requested the soil conservation plans of the seed companies based on the fact that they are required to be submitted to us, the Public Works Grading Department, and I know Larry Dill was here. Anyway, so theoretically they should be on file with us. Now whether they are updated, whether they are followed, these are things I still have to find out. Okay, enough about dust.

So the Department of Health does not regularly test adjacent or nearby sources of fresh and ocean water, soil and air for pesticide residues on the west side, where large scale agricultural operations are using large amounts of pesticides?

Mr. Gill: As I said, what we regularly test is the drinking water.

Ms. Yukimura: Drinking water.

Mr. Gill: And any pesticide residue on food. So what we are working to improve is the database of pesticide contamination in the environment that would be in the streams or ocean water or in the soil that runs off. It depends pesticide-by-pesticide where you might expect to find it. Atrazine, for example, tends to go through the soil and persist in groundwater. That is not the case for every other kind of pesticide. Some pesticides you might expect to be bound to a soil particle. And then the toxicology of each of those really depends on its pathway into the human body or into the environment. So it gets complex pretty quickly.

Ms. Yukimura: Very. You have described the atrazine study and other chemicals, which you said to Vice Chair Nakamura that you are still in the process of scoping. Other than that, do you have plans for doing any other testing?

Mr. Gill: Any other testing in the environment?

Ms. Yukimura: Yes.

Mr. Gill: Well, there are a number of watershed studies that we do, and clean water assessments of bays and beach waters. There is lots of different testing that is going on. Much of that is for bacteria. Some of that, if we are doing a more intensive watershed study in different parts of the island, we will also do a screen for different chemicals. But we do not have a Statewide program of environmental testing for pesticides in waters or soil.

Ms. Yukimura: Okay, how about you start with Kaua'i? I understand the magnitude of a Statewide study, but given that we have such intensity of interest and issues here, is there a way to...I mean could you develop plans...I am glad that atrazine...

Mr. Gill: We certainly will give Kaua'i as much consideration as we can. Just to remind you, though, in terms of atrazine, as I said, most of it is applied on Maui and most of the historical contamination we are finding is on the Big Island.

Ms. Yukimura: I did attend a Water Department Workshop on atrazine at Waimea Neighborhood Center about two (2) months ago, and they did report, and I am going to confirm, that there was no...they have not found detectable levels of atrazine in the water sources on the west side, the public water sources that the Department of Water is responsible for.

Mr. Gill: I believe that is the case. I had my staff reviewing that as well. There are atrazine hits on the west side in irrigation water, not in drinking water.

Ms. Yukimura: Right.

Mr. Gill: There are low levels that have been found in Lihu'e, historically, to the point of 40 parts per trillion, when the level is 3,000 parts per trillion. So what has been found is way, way below what is the regulated threshold.

Ms. Yukimura: Right. Okay, is that time?

Chair Hooser: Yes.

Ms. Yukimura: Okay, thank you.

Chair Hooser: Councilmember Bynum.

Mr. Bynum: Mr. Gill, thank you very much for being here. My delivery might be kind of rapid fire because I value your time very much. You mentioned that you were in this position in the Cayetano Administration.

Mr. Gill: Yes.

Mr. Bynum: And also in the current administration. And I believe you also were a Councilmember, yes?

Mr. Gill: Yes, but I am in recovery. [Laughter]

Mr. Bynum: Yes, I can relate. I just wanted to say I do not think we have met other than briefly one time, but I am really aware of your career and I very much appreciate your work and your solid reputation.

Mr. Gill:

Thank you.

Mr. Bynum: You mentioned several things I want to hit on quickly, which is...like the term you just used "it falls well below the regulated level." Everybody else has been saying "falls below the level at which it is safe. Because you mentioned that those things are revised downward frequently...

Mr. Gill:

Sometimes upward.

Mr. Bynum: So you are familiar with the history of pesticide regulation and how many pesticides have been deemed safe at a certain level and later have been determined to be unsafe, correct?

Mr. Gill: I guess the way that I would say that, because "safe" is such a relative term...

Mr. Bynum:

Yes, it is.

Mr. Gill: People are always asking us what is "safe?" I try to put it into perspective and probably the least safe thing any of us do is drive our cars, because that is what kills most people in the nation.

Mr. Bynum:

Right.

Mr. Gill: And yet that is an acceptable level of safety and people keep driving their cars. So we...

Mr. Bynum: interrupt you.

So is there currently...I do not mean to

Mr. Gill:

Sure, I am sorry.

Mr. Bynum: But I said I want to valuably use your time. Is there currently a safe level for PCBs?

Mr. Gill:

There is a regulated level for PCBs.

Mr. Bynum: yes?

And it has been regulated down many times,

Mr. Gill:

I am not sure.

Mr. Bynum: Okay, enough made. I want to know about your awareness of certain information that I received and things that we hear in the community. First of all, the Water Department has testified that there is not currently atrazine in our well water. That is good. But there has been in the past, correct? You are aware of that? I just want to know if you are aware of that.

Mr. Gill: in...

Yes, as I mentioned we found trace elements

Mr. Bynum: Okay, and you are aware that Syngenta paid class-action payment to the State, to the County of Kaua'i to help defer the cost of cleaning that atrazine. Are you aware of that?

Mr. Gill:

I am sorry, repeat the question.

Mr. Bynum: That there was a class-action suit.

Mr. Gill: I know there is a lawsuit.

Mr. Bynum: Which the County joined and we were paid payments by Syngenta, I believe, as part of that class-action suit.

Mr. Gill: I am not aware of the details.

Mr. Bynum: Okay. Our well waters do not have atrazine on the west side, but then the USDA tested drinking water from a drinking fountain at Waimea Canyon School and found measurable levels of atrazine.

Mr. Gill: Yes, 6 parts per trillion.

Mr. Bynum: Measurable levels of atrazine, correct?

Mr. Gill: Yes.

Mr. Bynum: So that is kind of in conflict with what our Water Department is telling us, yes?

Mr. Gill: I cannot tell you who is telling you what and what is in conflict.

Mr. Bynum: Or did they test below that level? But you are aware of that finding by the USDA?

Mr. Gill: I am aware that there was that testing of the drinking fountain at Waimea School, yes.

Mr. Bynum: I am curious about your resources. You mentioned it a couple of times that our resource conservation support is about to go away. You worked in the Cayetano Administration. How would you characterize the level of resources that you have as director in terms of personnel or funding for studies now compared to when you were serving during the Cayetano Administration?

Mr. Gill: I think it is fair to say for the Department of Health, Environmental Programs that I am familiar with, over time general funds have been restricted constantly. This was true during the Cayetano Administration, where we saw 5% restrictions across-the-board.

Mr. Bynum: I recall.

Mr. Gill: So for our Environmental Programs, we have tried to maintain our services through special funds or federal grant moneys. From time to time those funds get "raided" by the legislature to balance the budget. There is a dramatic difference between the time that I left the Cayetano Administration, the eight (8) years of the Lingle Administration, the economic crisis that ensued, and the legislative cutbacks that were authorized. So I came back into this job. We had no Vector Control Program; dozens of people were cut off, so.

Mr. Bynum: I think...may I move on?

Mr. Gill: Sure, please.

Mr. Bynum: I do not want to be rude, I really do not.

Mr. Gill: Well, there is a lot less that we have now than before.

Mr. Bynum: Right. I have asked this question of State agencies whether it is COWRM or DLNR or DOBOR, or all of these DLNR, and the story is the same. I used to have 35 people and now I have 15. Is it fair to say that the funds that the state has available to mālama 'āina across all these departments have diminished dramatically over the last 20 years?

Mr. Gill: When you say diminished dramatically, that is hard to measure, but certainly...

Mr. Bynum: Well, that is the language you just used. You said there is a dramatic difference between the resources I had eight years ago with Cayetano.

Mr. Gill: Right. I am talking about the resources that I know I can measure. You just mentioned about across the whole State for which I do not have that information.

Mr. Bynum: I will stick with that. I apologize. I would not ask you to speak for other State departments.

Mr. Gill: I think it is generally true that government resources, regardless, on the County level, State level, Federal level, have been reduced over time, especially in reflection or comparison to the cost of living or inflation.

Mr. Bynum: Which I know must be a real frustration for an appointee who has a certain mission, right? So you are the appointee level; right?

Mr. Gill: Yes.

Mr. Bynum: Below you are long-term and, sometimes this is a pejorative term but it is not for me, mid-level bureaucrats that have been working in the department for many years.

Mr. Gill: Yes.

Mr. Bynum: In my experience, both at the State and County level with our HGEA white-collar workers, is that they are by and large outstanding.

Mr. Gill: I agree.

Mr. Bynum: And work really hard on behalf of the community. Would you agree with that?

Mr. Gill: I fully agree. I have a great crew.

Mr. Bynum: I am sure you do because I have talked with some of them and I am very impressed, as I usually am at that level of government. But I also think there is an extremely high level of frustration, particularly among

technical people, because of their lack of resources. So I want to ask about some resources that you might be able to bring to bear to help us.

First of all, has DOH ever tested coastal stream and river water for pesticides after heavy rains anywhere in the State?

Mr. Gill: I think the answer is yes, but I do not have...I am not prepared with that data today.

Mr. Bynum: Has that been done on Kaua'i?

Mr. Gill: I would have to get back to you.

Mr. Bynum: The reason I am asking this question is that right after a rain is when there is most likely to be concentrations from runoff that is occurring that does not routinely runoff into streams and rivers.

Mr. Gill: Sure, so for example...

Mr. Bynum: Has the DOH ever tested that kind of...

Mr. Gill: Yes.

Mr. Bynum: During a storm event?

Mr. Gill: Sure, and that is why I said I think probably the most likely case on Kaua'i is we have a lot of data on the Hanalei watershed. So there is probably ample data of rain events and dry periods, for example, there. But it is watershed by watershed based.

Mr. Bynum: So given the specific concerns that are happening here on Kaua'i now and Dr. Berg, who you said is a meticulous scientific kind of guy, and what he has done is these test positive/negative strips that are obtained that do levels at 0.03 parts per billion of atrazine and he has found it in seven of our waterways recently. He also said that the Department of Health had found atrazine in waterways at lower levels. Given those concerns, and your authority under 342 to test any waters or aquatic or other life forms that have been subject to any form of non-point source pollution and assess the environmental effects of that pollution, can we do that on Kaua'i?

Mr. Gill: Sure, we do that all the time.

Mr. Bynum: During storms or immediately after storm events?

Mr. Gill: That is actually, personally speaking in terms of my administration and where I would like to go, that is where we need to put more of our resources if we can get them, in polluted runoff during rain events.

Mr. Bynum: Okay, moving on. Are you aware of the data that has recently come from the lawsuit at the west side that was released by a federal judge showing spray data for fields that Pioneer controls in Waimea? Are you aware of that data or have you seen it?

Mr. Gill: I have not reviewed it. I am aware of the lawsuit generally. I have not seen any of the data that has been generated from it.

Mr. Bynum: Okay, so if that data showed very high levels and frequency of pesticides were being sprayed on west side fields, would the Department of Health be interested in that?

Mr. Gill: Certainly we are interested in it, and we are engaged in it. When you say high level, that is hard to define.

Mr. Bynum: This is very complex data and as people who follow county government know that I have been concerned about our challenges about collecting/propagating data and analyzing it. This data may contain lots of important information that the State currently does not have. Do you have resources to do data analyses to tell us...to help us to analyze this data? It may contain... Yes or no?

Mr. Gill: From the Department of Health standpoint, again, we do not regulate the application of the pesticide. We are concerned about the toxic pathway into the human population or the environment. So we certainly would put some resources, our toxicological experts to help assess that data with others, but I do not want to give you a false expectation that we could come to some conclusion based on data I have not seen.

Mr. Bynum: Okay, so you mentioned groundwater. Have I run out of 10 minutes? I will catch you later.

Mr. Gill: I am happy to chat more later on.

Chair Hooser: Thank you. I am going to ask a few questions and we should not all feel compelled to use up all of our 10 minutes every time, especially this next round. There are plenty of people waiting, so I will try to be very brief.

Thank you again for coming again today. I believe you are aware of Dr. Dileep Bal's personal testimony in support of the passage of 2491. And he is the District Health Officer.

Mr. Gill: Yes, I have read it.

Chair Hooser: He wanted to make it clear in the testimony that it is in his personal behalf and not in his official capacity as the District Health Officer for Kaua'i. In addition to Dr. Bal, there have been many medical professionals, the majority of pediatricians in the community, many doctors on the west side and elsewhere who are supporting the measure, and I believe you are familiar with the basic provisions in the measure also. Most of the support, I believe, from the physicians focus on the provisions requiring disclosure and requiring buffer zones around schools, hospitals, homes, and other sensitive areas. Would you and/or the department have any thoughts on these specific portions of the bill?

Mr. Gill: I have some thoughts. I am not sure I can speak on behalf of the department on them, but I am happy to share my own personal perspective and my professional experience on this. The Department of Health deals with these issues all the time. There are concerns in various communities around the state at different times for different reasons about the health impact of something. It could be geothermal. In some cases it is things that people have read on the Internet. In some cases it is...for example, the Fukushima nuclear meltdown, those kinds of concerns. So people feel ill and they associate it

with some potential exposure of something that they either know about or heard about or they do not know about, and that is the scariest part. So we often deal with folks who are concerned about the unknown. One way of dealing with that unknown is through public disclosure and information. So, as I said, this pesticide thing goes on decades ago. It goes back to...in recent times in the 1970s (if you can call that recent) the heptachlor concerns on pineapple that got into the milk supply. As part of that pesticide issue, laws were passed and as I said, the law requires the Department of Health to put out a press release when we find something in drinking water. That is an example of how we can try to provide some confidence or some level of information to give people confidence that we are on the job, that we are looking, and all this information is available to the public and is not being hidden by some perceived conspiracy of big business and government. It is a long way of saying that public disclosure in my experience is a good public policy tool to deal with these kinds of concerns.

Chair Hooser: Thank you very much. I do not have any other questions for now, and we can go another round. Again let us not...a lot of people to speak, but if there is follow-up questions. Councilmember Kagawa.

Mr. Kagawa: I will defer. I am ready to move on.

Chair Hooser: Councilman Rapozo. Okay? Councilmember Nakamura?

Ms. Nakamura: I would like to follow up on another concern that I heard on the west side primarily from physicians about high levels of birth defects, especially congenital heart-related defects. I was wondering if you had any information or follow-up on...

Mr. Gill: Thank you for that. I mentioned that briefly. We are looking into that. We have heard those concerns as well. When it comes to the data that is kept about these things, there is a birth defect registry, just as there is a cancer registry. So we have done an initial review of the cancer registry and have not been able to identify a statistical anomaly or any kind of cluster. We have not yet been able to analyze birth defect information. So that is something that we are doing, and we will be able to hopefully provide the data that comes from that. As I said, I am not a medical expert or a doctor, so these are things that we rely upon, experts in the University of Hawai'i or the medical community to do. Not all birth defects or what people would commonly consider birth defects are part of that registry, so there might be perceived illnesses or impacts that are simply not...for which we have no data. And I will just say my expectation would be that it is going to be very difficult given the limited data that exists in a small population to come to any conclusion. Usually you need to have millions of people, a data pool of millions of people to get a statistical analysis that has any weight. If you look at a population of 10 people and one is ill, that does not have enough statistical weight to draw a conclusion from. Even a 100, even 1,000, often you need hundreds of thousands of people to get enough data to find an effect. But that should not keep us from looking and certainly the anecdotal information that comes from the medical community is very important.

Ms. Nakamura: That is all I have for now. Thank you.

Mr. Gill: Thank you.

Chair Hooser: Councilmember Yukimura.

Ms. Yukimura: Thank you. Follow-up to Vice Chair's last question, you said the Department of Health is analyzing data from the birth defect registry. When would you expect to have some of your analysis?

Mr. Gill: I do not know. I think it would be a number of weeks or months. It should not take long. I am not familiar, personally, with that process, but we do have toxicologists and epidemiologists who can work with the experts.

Ms. Yukimura: And it is a subject of your department's work at this point?

Mr. Gill: I have personally asked my staff to look into it.

Ms. Yukimura: Oh, thank you. Is there a State Epidemiologist?

Mr. Gill: Yes, there is. Her name is Dr. Sarah Park.

Ms. Yukimura: Okay, so if the County were to embark on any epidemiological studies, would she be a resource person then?

Mr. Gill: She does not work directly for me, so I cannot commit her time, but I am sure she would be available to consult with the County on that.

Ms. Yukimura: Okay. Another subject, you do watershed studies and you mentioned Hanalei Bay. Is that one watershed where you are doing studies on Kaua'i?

Mr. Gill: I think on Kaua'i, it is probably the most studied watershed.

Ms. Yukimura: Yes, maybe in the State.

Mr. Gill: On each island we may have a watershed that we are focusing on. So historically for Kaua'i because of the range of concerns and that it is a heritage river and all of those things, we have a lot of data.

Ms. Yukimura: Is there any chance of expanding your watershed studies to a watershed on the west side?

Mr. Gill: Certainly. Basically the decisions on where we focus our limited resources are based on impairment. So we do an assessment of streams and waterways throughout the State. Under federal law we need to do this. We measure the kind of impairment, where the waters in that area are not meeting federal or state standards. We focus on watersheds which have the greatest impairment or the greatest impact to public health and the environment. Obviously we do not have the funds or resources to do every watershed, there are hundreds of them across the State. We will be doing them for a very long time in the future based on the limits resources that we can put into that project.

Ms. Yukimura: How much would it cost to do a watershed study?

Mr. Gill: It is a great question. Hundreds of thousands of dollars usually to do a watershed study, and there is a methodology under EPA that needs to be followed to do that, so that at the end that watershed can qualify for grant money that is dedicated to the state from EPA. Again, it is a diminishing resource. It is the 319 Program, Section 319 of the Clean Water Act. So before we can actually put some of our grant moneys into watershed projects, it need to be in a watershed that has been the subject of one of these studies following that methodology.

Ms. Yukimura: I see, okay. Given your *kuleana* in protecting public health and your specific authority to regulate fugitive dust, has the Department of Health done tests or at least preliminary assessments of a dust problem in Waimea Valley, where there are heartbreaking reports of excessive nosebleeds, asthma attacks, and other ailments?

Mr. Gill: I do not believe we have done a dust study above or beyond what was done at the school there by your county funds and the Department of Agriculture.

Ms. Yukimura: And that was mainly pesticide.

Mr. Gill: That was for pesticides. We have done dust studies, for example in the Nanakuli area most recently. Typically dust is a very inefficient pathway for a contaminant. So of all the ways that health could be impacted from a toxic, dust is one of the least likely to cause an impact at the levels that we are seeing. So I can just say that generally has been our experience.

Ms. Yukimura: I am glad to hear that actually, because otherwise, there are greater worries if it were very toxic.

Mr. Gill: Well, again, it is issue specific and what is the toxicant.

Ms. Yukimura: Right, right.

Mr. Gill: But if something is...basically you do not inhale that much. So it comes down to what is the actual pathway into your body and the dose and the duration of that pathway. That is where you are going to find a toxicological impact, and that is why we look at groundwater or drinking water so intently, because this is stuff people drink every day. So that is...and it goes directly into your body. So for dust, often a chemical or a toxic metal is going to be bound to that dust particle and often will flush through your body without your body absorbing it. Again that really depends on the toxic, but that is just sort of a general rule. So eating something or drinking something is a far more efficient pathway to get a toxic into your body than breathing dust. Your nose filters a lot of it out.

Ms. Yukimura: I.E., eating and drinking is far more toxic than something.

Mr. Gill: Typically.

Ms. Yukimura: Typically, right.

Mr. Gill: It is a more direct pathway for a toxic to have an impact on the human body.

Ms. Yukimura: And is there per se toxicity from dust alone?

Mr. Gill: That is a very broad question, so sure for asbestos in particular or black lung disease in miners, right?

Ms. Yukimura: Oh.

Mr. Gill: So if you have...

Ms. Yukimura: I am talking about soil.

Mr. Gill: In soil, I am not aware that...I will say this because I am not aware and checking by memory with my toxicologist, I do not believe that in the United States we have identified a toxic impact for chemicals bound to dust in a residential community as we are talking about here. I do not believe one exists, but I will have to double-check.

Ms. Yukimura: Okay, and I am sure we will find medical professionals who say it can nonetheless very much aggravate asthma and other health conditions.

Mr. Gill: Certainly you are going to find any number of things will aggravate those kinds of pre-existing conditions.

Ms. Yukimura: Yes.

Mr. Gill: And there are some studies that show mold or cockroaches cause asthma or could actually cause it, not just exacerbate it. So there are studies out like that and I have to be very cautious about making broad declaratory sentences because there is always a study that finds an impact on something.

Ms. Yukimura: Okay, thank you very much, Gary.

Mr. Gill: My pleasure, thanks for your questions.

Chair Hooser: Councilmember Bynum.

Mr. Bynum: Gary, I want to focus on the study that you mentioned a couple of times that the Health Department was involved in, yes?

Mr. Gill: Which study?

Mr. Bynum: The Waimea one in response to this Council and in response to the children going to the hospital. Are you familiar with that?

Mr. Gill: The Department of Health was not directly involved in that study. I think...

Mr. Bynum: Does Dr. Robert Boesch work for the Department of Health?

Mr. Gill: No, Bob Boesch is retired. He was the Pesticide Administrator for the Department of Agriculture.

Mr. Bynum:
mentioned it a couple of times.

Okay, are you familiar with that study? You

Mr. Gill: I am familiar...my toxicologists have reviewed it, so I am familiar in a general level.

Mr. Bynum: How did they review it, because I have not been able to get my hands on a copy of it even though we helped to pay for it. And to clarify that, I got a copy this morning, this morning. It has not been released, that I am aware of. Are you aware that they acknowledge that there are 22 pesticides that are being purchased and used on the west side and the study only studied six (6)?

Mr. Gill: We are talking about the air sampling study at the school?

Mr. Bynum: Yes, yes.

Mr. Gill: I cannot address in detail that. I think the study found five (5) pesticides at very low levels.

Mr. Bynum: It found...I am sorry. It found five (5) pesticides out of the six (6) they... Anyway, if you are not familiar with this, I am going to change my line of questioning to say, will you review the transcripts of the commitments that were made to this County Council and the Bill? Will it be available for peer review? Why did the County not get a copy? And the most important thing is there were commitments from the Department of Health, the University, and the Department of Ag that the study would study acute exposure. So you just said food and water, obviously, is an efficient pathway for a toxin, so is breathing, correct? That would be a more efficient...like if you have acute exposure to a pesticide and you breathe it or it is on your skin that is also an efficient transfer to the body, correct?

Mr. Gill: Depending on the concentration that you are breathing, yes.

Mr. Bynum: So what allegedly happened on the west side was an acute exposure to pesticides. There were three (3) theories: it is stinkweed, it is hysteria, it is pesticides. The State Department and the University, based on fifty thousand dollars (\$50,000) and my commitment for that fifty thousand dollars (\$50,000) was that you will study acute exposure. That did not happen.

Mr. Gill: Yes.

Mr. Bynum: They unilaterally took that out.

Mr. Gill: Yes.

Mr. Bynum: They did not give the quarterly reports that they were supposed to provide this Council. They did not tell us about the research methodologies prior to them being done. Just a brief reading says they only test... There are twenty-two (22) chemicals that they could have tested and they tested six (6). And they found three (3) of the six (6) of the modern chemicals. They found DDT everywhere, as you know, everywhere on the planet. But three (3) of the six (6)...why were not...so there was no...all of these commitments were... Will you

review those documents and provide comment from your role as a person who is here to protect our health?

Mr. Gill: Certainly, we can do that. I want to clarify though, the Department of Health was not engaged directly or responsible for that study. It was contracted to the University of Hawai'i.

Mr. Bynum: Yes.

Mr. Gill: I can tell you that I really think you do not want to study acute exposure because then you would have to acutely expose people, right? So...

Mr. Bynum: No and that is what Mr. Boesch said. That was an insult. We discussed all of this.

Mr. Gill: I was not familiar with it.

Mr. Bynum: I just want you to read the documents, please. Will you agree to do that? It will probably take 30 minutes.

Mr. Gill: I will review, again, with my staff the findings.

Mr. Bynum: I will supply you some additional documents.

Mr. Gill: I will be happy to receive whatever you would like to give us.

Mr. Bynum: Thank you very much. In particular I want to talk about one chemical "lorsban," which was found in the air at Waimea Canyon School. Is it not inappropriate by the label for Lorsban at any level to be found in a school? Is that not the chemical that has specifically been identified since 2000 as a particularly toxic chemical to children? And why is it in the air at Waimea Canyon School? And should that not be a very serious concern to all of us?

Mr. Gill: Well, any exposure of toxics in our community is a very serious concern. I will restate that as I stated at the beginning, the Department of Health takes this very seriously. It is our mission, it is our job, and we do it. But when we are talking about...and I am not familiar personally with lorsban or whether that actually is chlorpyrifos, metachlor, bife...

Mr. Bynum: Yes, chlorpyrifos.

Mr. Gill: That is chlorpyrifos, okay. But for that chemical or any others, there are regulations on how it is applied and at what levels it is allowed to be found on produce or in water. And so anything above those levels is of severe concern, and we have an entire system of enforcement and regulation that deals with that.

Mr. Bynum: Well, we have this data that I believe has to be reviewed by regulators to determine if violations have occurred. I am going to close with this. All of these labels, in my view and I want your view, assume that these chemicals are being applied and used on production agriculture. They do not assume that you are going to apply the chemical to... It is a pesticide, right? It is to deal with a pest, whether it is an herbicide or a fungicide; right? We all assume you

do not spray... If you spray Roundup today, you do not expect to stray spray it again tomorrow. It is going to last a few weeks, a few months, but this data shows us that the same fields are being sprayed with pesticides day in and day out, four to six times a week. Who has ever studied those practices at that level of quantity and frequency of spraying to say that it is safe? I think all of these regulations are about farm production and they do not assume that you are going to be spraying over and over again. It is just logic, Mr. Gill. Eight times I am going to get exposed if I lived in Brydeswood, maximum. If I lived in Waimea I could get exposed four to six times a week on average. Okay? The potential for that acute drift...that acute exposure, you can test it. You set up the similar conditions, you put catchers, and you spray with wind. I did not suggest that we were going to line up kids at Waimea Canyon School and dose them. But that is what Mr. Boesch came here and insulted me, and said it would be unethical to do that. Do you want to say that there is no way to test for acute exposure? To me it is pretty simple. So I want to know and if you cannot answer today...are not all of these regulations assuming production agriculture? Who has ever studied what is happening on Kaua'i: frequent high volume spraying of pesticides in secret, in volumes that appears to me from this research four times greater than any production in terms of volume.

Mr. Gill:

Right.

Mr. Bynum: There may be violations in that data. I asked the State if they had ever looked at this kind of data. They do not have it. They do not know. And so I am asking the State of Hawai'i, the Department of Health, will you take this data and analyze it? Will you, Mr. Gill, and your colleagues, tell us who ever studied this kind of thing, this frequency, this volume, immediately upwind from our communities? You just look at the map. I also want to know why that data does not include wind speed data. Every time I have heard testimony from the workers they collect wind speed every time. I did not see that data. But we collect wind speed real-time. I want to see that data compared up. Was spraying happening on days where we know there was high trades? I do not know how you spray that frequently because we have trades 80% of the time. Do you know the answers to any of these questions? Are they reasonable questions and can you help us, please?

Mr. Gill: Councilmember, those are very reasonable questions. And I think they reflect...I think the core of concern that is out there in the community, as I mentioned, the concern about what we do not know. I can tell you what we know. I can show you the data that we have, and I am confident that the data that we have on drinking water and in pesticide residue on vegetables that the Department of Health is actively protecting public health. What I have mentioned and what you have pointed out as well is that there are things that we do not know; right? We do not know, the Department of Health does not know the acute impact of the aerosols or the dust or the runoff from a recently sprayed or currently being sprayed field. That is what I mentioned is the data that we are going after to get that baseline. So some of it when you talk about acute toxicity, there are terms of art and there are terms of science, but let us just be clear. As I understand it your concern is what is the impact on the community for multiple sprayings near communities downwind from something that is being multiply sprayed.

Mr. Bynum:

Multiple sprayings at high quantity.

Chair Hooser: Ten (10) minutes and if those of you who are watching cannot tell, it is a challenge to keep everybody on-task and all the councilmembers are given their ten (10) minutes and appreciate that, a lot of

leeway. We do need to move on. Just so the rules are clear: ten (10) minutes apiece, two (2) rounds, and no follow-ups at the end. In case those rules were not clear, we can for this time, Councilmember Kagawa said he has a very brief question, Councilmember Yukimura has a brief question. If those brief questions can be under three (3) minutes total discussion, I would greatly appreciate it. But as we go forward, let us just take your ten (10) minutes, take your second ten (10) minutes, and we move on. There are a lot of people here who want to speak. So please, Councilmember Kagawa.

Mr. Kagawa: Thank you, Chair, I think you are being very fair, but it has been other Councilmembers go for it, then I feel compelled to also jump in too.

Mr. Gill, a lot of the reasons why we are having this Bill is because of that Waimea Canyon School incident. I think really it home when our children possibly got affected by spraying. The school is under the State of Hawai'i, right, the Department of Education?

Mr. Gill:

Yes.

Mr. Kagawa: When that incident happened in 2006 or what have you, and then it happened again in 2009, did the State Department of Education contact the State Department of Health and say we have an immediate crisis on our hands? Children, like my good friend Gilbert Nobriga's grandson got sent to the hospital; vomiting. There were teachers also who got sick. I would think that if the Department of Health said that there was an immediate health emergency that you would have shut down the school. You would have told the school to cease operations until we figure out what is happening or move locations or something, right, but nothing was done. The Department of Education, I guess, just said we will continue school. We will investigate through the County, I guess. I just do not get it. I mean, it is a State entity handling our State's children. If a health concern was actually there, I would fire the superintendent, I would fire the principal, and I would fire whoever had any authority to look into it. So that is where this part about what really happened? And I think there needs to be better coordination. This is front page news, Gary. In the future, you need to jump right in and let the public know what way the Department of Health is on all of this because we rely on you to tell us if there is a health emergency now on our island. I think it is a shame that we are here at the Council level. You worked for the City Council before, and something that important, you would think the State would just coordinate right there, address it, and we would not be wondering seven (7) years from then, what happened. Was that stinkweed? Was it pesticide spraying? That is why we are here right now trying to figure out where we go from here on pesticides. On disclosure. On testing. I mean, I do not know if you have a response to that.

Mr. Gill: Yes, I do. Thank you for that. First I need to say the actual event that took place, I, obviously, was not at the Department of Health. I do not know whether the Department of Education contacted the Department of Health or not. I can tell you that the Department of Health has responded to these kinds of complaints. Typically an odor complaint is something that comes and goes. It could have an impact during the time the odor is there, and sometimes we have traced that to a chemical spraying, and at that time in some cases the school is closed down. What it was not at this point? I do not know. Perhaps the folks who came on the scene did not identify an odor or any impact or there was no source that was identified. The Department of Health has closed down places before and we do so when we feel it is necessary. If there is an imminent and

substantial endangerment to the public health, we have the authority to take site control and I have done it personally for a mercury spill, for an acid spill.

Chair Hooser: Thank you very much. Thank you, Mr. Gill. We are going to have to take a caption break. How long is the caption break? Ten minutes, so we will be back in ten (10) minutes.

There being no objections, the Committee recessed at 11:08 a.m.

There being no objections, the Committee reconvened at 11:22 a.m., and proceeded as follows:

Chair Hooser: Councilmember Yukimura had a brief follow-up.

Ms. Yukimura: I just wanted to follow-up on Councilmember Bynum's explanation and his idea of an acute study. He said we will not be using human beings, but there will be some kind of testing to understand what with happens when there is a spraying at a certain distance, under certain wind conditions, and what the residues are in the air at say, a school distance or from a field, and for how long. Are you doing those studies?

Mr. Gill: As I tried to outline, with the money that we put together, which is not much, we would probably not be able to do what you are describing at any one particular case. What we are trying to do is what I would call "worst case scenario testing." What I would like to do, if we can, is identify where spraying is taking place and take a grab-sample at that one point. It will not be at one location over time under various environmental conditions at various distances from the application. That kind of intense study would be something worth doing, but I do not think I have the funding to do that. What we are trying to do is find baseline information from around State as recently as we can from an application of any chemical pesticide, where that may persist or how it may enter the environment. Basically, what we can afford right now is a scanning level, a background level and not an intense study on any one application at any one point.

Ms. Yukimura: Thank you very much.

Chair Hooser: Thank you, Mr. Gill, for taking the time to come all the way over here.

Mr. Gill: It is easy to get to Kaua'i than drive into town from Ewa, so happy to be here.

Chair Hooser: Thank you very much anyway and I appreciate any follow-up that members might have with you on these issues. Thank you.

Mr. Gill: Happy to come back and engage any or all of you, give me a call any time.

Chair Hooser: Great, thank you very much.

Mr. Gill: Thank you for your time and thank you for doing this. It is a tough job, I know.

Chair Hooser: Thank you. We are going to call up the Director of Public Works, Mr. Dill, and then do an abbreviated version, which is

happy to hear. The members will have one ten (10) minute round unless you want to do two (2) five (5) minutes rounds because we want to move onto the other people that are here today. Thank you, Mr. Dill. We will go with Mr. Kagawa.

Mr. Kagawa: Thank you. Larry, where would you start if we pass this Bill? What is the first steps that you see as your job as the boss of this new proposed Department? Where would you start in hiring? Would you like to see to what the State is doing and where they are missing parts that this Bill wants do? Where would you start? How many people would you hire or look to hire? Look at the State, they have a position that is critical to responding to dust complaints, etcetera that cannot be filled. Is the County going to advertise the same position and are we go to be successful where the State cannot? Where would we start? What are we looking at? What kind of costs? Do you think you can enforce this Bill and how much time would it take for you to enforce this Bill and make everybody happy that wants to see the Bill enforced the way it is?

LARRY DILL, P.E., County Engineer: Good morning. Where would I start? It is a good question. I am a Civil Engineer as the Director of Public Works. The things in this Bill fall outside our area of expertise. Where would I start? I would look for somebody with the expertise to give us guidance and direction. Currently, the folks that do have the expertise when we do have questions about these things are the Department of Health and Department of Agriculture. In the State of Hawai'i, we also work with the Soil and Water Conservation Districts and the Natural Resources Conservation Service (NRCS). They are the folks that have the expertise with these things. We would start with those entities to give us guidance as to how to set up a program. Also, I think we would want to bring a consultant on board with expertise in the areas that could give us guidance about how to implement the Bill or Ordinance if it becomes enacted into law, as it is written. Working with them and the State and also probably the Federal government, the USDA and EPA about how to implement things there. I have made some approximations and estimates. Again, I have to put a big caveat on that because I am not an expert on these things about what sort of staffing and manpower we envision that would be necessary to implement. All of that would need to be revisited and reconfirmed. In some of my discussions that I have had with the Department of Agriculture, these are folks who have the expertise for a lot of these things. It is an ongoing process and it is taken them years to setup protocols, rules, and regulations to address the things that they do as it is. I am not in position where is can give you a firm answer to those things today, but I will say that I think I have provided to the Council with all the aforementioned caveats, a general estimate that I estimate we would need probably three (3) inspectors, a couple of permit clerks, and a couple of specialists who would have the specific expertise in the area of GMOs and/or pesticides, and then a manager for that Division, if you will, if that what is ends up being.

Mr. Kagawa: Basically, six (6) people to start with?

Mr. Dill: Three (3), two (2), two (2), and one (1).

Mr. Kagawa: Eight (8) people?

Mr. Dill: Yes.

Mr. Kagawa: If we go about one hundred thousand dollars (\$100,000) per with benefits, that is maybe eight hundred thousand dollars (\$800,000), at least manpower only?

Mr. Dill:
salaries.

That is the range, yes, and that is just

Mr. Kagawa: Just salaries, yes. Well, that is always the biggest cost with any government, is the salaries and then you add maybe another thirty-three percent (33%) or whatever. But anyway, let us just go through a hypothetical situation. Say the Bill is passed, you have your team in there, you get a complaint that this company is not five hundred (500) feet away from the river or whatever, you got a complaint called in, and how do you respond?

Mr. Dill: It is going to be difficult for me to answer questions about this when no program is in place or said. But I can tell you right now, if we get complaints about grading and grubbing issues we send an Inspector out to inspect. If it is a permitted situation, they will check it against the permit requirements and bring it back and file an investigative report with us. Then out in the field, the Inspector, if he foresee what a problematic situation, he can right there tell them to cease and desist or he will get back to them as to what he needs to do in order get into compliance. If it is an unpermitted situation, we would likely require a cease and desist right away, except for the fact that we would usually require that they put in measures to prevent any further damage to the environment or the situation. They might have to put in some measures, for instance, erosion-control measures. So, we would want to make sure that they stop, but put in those measures that would stop further damage from happening.

Mr. Kagawa: I am good for now.

Chair Hooser: Councilmember Rapozo.

Mr. Rapozo: I did not have a question, but I wanted to clarify something that you said. You would work with the State, right, the Department of Agriculture and Department of Health to find out how we can do their job using County money to duplicate their service?

Mr. Dill: Exactly.

Mr. Rapozo: That is all I have. Thank you.

Chair Hooser: Councilmember Nakamura.

Ms. Nakamura: Larry, you have had a chance to take a look at this Bill and you have outlined some of the staffing needs. You are basically saying that we cannot use existing staff?

Mr. Dill: That is correct.

Ms. Nakamura: What types of skills do you think are going to be needed to implement what is laid out in this Bill in terms of the responsibilities of your Department?

Mr. Dill: I will sort of technically, we would need folks and again, it is difficult for me to answer this because I do not have technical expertise in this area. But the Department of Agriculture has Pesticide Specialists on staff. The Department of Health has Environmental Specialists on staff. We need folks that have the technical knowledge and understanding. I have the Bill in my bag here, but there is some very technical terminology used there. I can tell you that I do not know what that is and we would need to have folks on board that know

what they are talking about when they issue permits and when they conduct regulatory activities when dealing with the permittees. We would need folks who are specialists in those areas. We would need clerical support as any Department does to manage permit, but also to handle clerical functions. So, that is not a technical requirements, and then Inspectors. We do have Inspectors in the Department of Public Works and other areas of the County. But all of those Inspectors, for instance, in the Engineering Division we have Construction Inspectors who have knowledge and expertise with regards to constructing a road, how a pavement should be built, how a storm drain should be installed, things like that. We would need to have Inspectors on board as well, and they would have to have sufficient knowledge of agricultural activities, pesticide use, perhaps GMOs if we get into that, too.

Ms. Nakamura:
EIS-like process and product?

Do you have personnel to oversee an EIS or

Mr. Dill: Yes, we do, but the caveat there again, I am sorry I am issuing so many caveats as my stage today. But the caveat is for instance, as well all know, we are doing an EIS for our landfill right now. We have a Solid Waste Division and they have a level of expertise and they also have consultants that they have access to, to address the EIS and know where to get guidance for those sorts of things. If we were to conduct an EIS as outlined in the Bill currently, we do not have any staff to manage that process and we would have to go out there and find out where the expertise lies. Likely, as I mentioned within the Department of Health and Department of Agriculture for starters anyway. We do not have staff in-house that have any level of expertise for these things that could manage an EIS process.

Ms. Nakamura: What about the section regarding establishing a permit process? Have you established permit processes?

Mr. Dill: For this particular subject? We have many permitting processes in the Department of Public Works as you can well imagine. We do have experience in that. But again, all of those permits, when we establish a permit process for those permits, the knowledge and familiarity with the subject matter exists within the Department currently. The permits, we would have to establish with this again, would be subject to somebody having the familiarity, knowledge, and the expertise with the subject matter in order to create a permitting process that is fair, reasonable, and appropriate.

Ms. Nakamura: It sounds like part of your Department's new role would be to manage information that would be gathered annually by commercial agriculture uses that use a certain amount of pesticides that would trigger this disclosure. Would the number of staffing requirements you have taken that into consideration?

Mr. Dill: That is my best estimate right now, yes, but that would be subject to bringing somebody on board with some expertise in these areas to help us flush out a program.

Ms. Nakamura: Do you see the possibility of having a County database and managing that information so that it is user-friendly, geographic based, and timely information?

Mr. Dill: I suppose that could become part of this process. I believe that part of the process is gain transparency and provide

information to the public, so that would be one way, I agree. But from our perspective, I am very reluctant to create a garbage-in/garbage-out program. When we implement such a program, we would have to have the understanding of what the information is rather than just receiving it and posting it. But having said that, such a database might be an effective way to provide the information.

Ms. Nakamura: Thank you very much.

Chair Hooser: Councilmember Yukimura

Ms. Yukimura: Yes, hi Larry. Can you tell me what Public Works is involved with, Public Works generically, with commercial agricultural entities that intentionally or knowingly possess Genetically Modified Organisms?

Mr. Dill: What the current involvement is?

Ms. Yukimura: Yes. Well, no. What Public Works, I mean you have Public Works Sewers, Roads?

Mr. Dill: Oh, where in Public Works?

Ms. Yukimura: Well, what Public Works is this permitting process referring to?

Mr. Dill: There is no existing process in Public Works that deals with any of those sorts of things.

Ms. Yukimura: I think you said it, but let us make it clear. Public Works at this point, has no expertise on the growing of Genetically Modified Organisms?

Mr. Dill: Anything to do with Genetically Modified Organisms, that is correct.

Ms. Yukimura: You did say that you would have to duplicate the Department of Agriculture's or Department of Health's roles, but this permitting does not really refer to any pesticides. It sounds like it is more a USDA role of understanding potential risks of growing GMO crops.

Mr. Dill: My understanding, and it is growing every week on this issue, is that the GMOs are the *kuleana* of the USDA as you mentioned, but the local State Department of Agriculture monitors and regulates the pesticides.

Ms. Yukimura: Right. But I mean, this is talking about pollen drift and I guess cross pollination and that kind of thing which I do not think even Department of Agriculture or Department of Health regulates.

Mr. Dill: That may well be the case, yes.

Ms. Yukimura: We are really talking about USDA functions?

Mr. Dill: Yes, that is my understanding.

Ms. Yukimura: Which for me anyway, is even farther away from County *kuleana*. The one place there is some crossover is in dust because you folks, under the Grading and Grubbing law control dust. I am not sure what your

Inspectors would be inspecting and if there is an analysis that needs to be done of cross-pollination and so forth. It is a very different kind of Inspector than a Building Inspector or a Grading and Grubbing Inspector.

Mr. Dill: Oh, absolutely, yes. Well, I think there would be some overlap, but that would remain to be seen.

Ms. Yukimura: Thank you very much.

Chair Hooser: Before we go on, if anyone who has a wristband and is not in their seat or in the Chambers, you have to return to your seat or we are going to give your seat to someone else. I am assuming this message is going around the building. People have left, we want to let more people to come in and sit. So, five (5) minutes, anyone who is not in their seat, we are going to be giving up those seats. Thank you. Councilmember Bynum.

Mr. Bynum: Thank you, Larry for being here today. I am in the middle of fact-finding about the Grading and Grubbing and conservation issues. I am not going to ask about that today at all because I think I need a better basis of information to ask meaningful questions. In terms of the regulation though, I appreciate every answer you gave, but I want to give some clarifications and ask some what if, what if it turns out this way kind of questions. First of all, I want to say we are not growing GMO crops on Kaua'i. There are no GMO production crops growing on Kaua'i. The way I envision this is that the studies that you will bring in or we as a County will bring in expertise. Let me start with this, we are currently studying bringing grass-fed beef to market and chill factors. I do not think that the Department of Economic Development had any staff people who – well, maybe they did actually with Bill Spitz. So, maybe that is a bad example. But to do an EIS, we are obviously going to bring in expertise like we have with the landfill. This Bill has measures that I personally hope happen quickly, buffers and notification. That is going to be a big part of any regulatory effort, right? I see that our work on this effort will lead to how we do it and you have already speculated on that. Websites, notifications, that kind of thing. It could be that we turn out that all we are regulating is compliance with putting data on to a website. The companies are going to attest to certain things and we are going to pretty much take them at their word, which is what the whole world does right now because I do not have any concerns that the people working on Kaua'i are going to commit fraud or try to manipulate data or anything like that. They are professionals. Could it be, Larry, that the regulatory thing took as little as one person in the long run, if they were just clarifying that certain things had occurred and that certain documents were in place, that kind of thing?

Mr. Dill: Could it be? Well, it is not our practice, I guess, to regulate things in that manner. When you have regulatory procedures in place, they also inevitably entail enforcement.

Mr. Bynum: At some level and we try to make those enforcements as easily accomplished as possible, right?

Mr. Dill: Yes. I can tell you that our goal in Public Works is not to jump out there and find people. Our goal is to help people move into compliance.

Mr. Bynum: Exactly, exactly.

Mr. Dill: But that opens the door to the requirement of some level of expertise in order to help make that happen.

Mr. Bynum: Yes.

Mr. Dill: You mentioned briefly the Grading and Grubbing Ordinance and as you are well aware, the Ag exemptions that happened there, we have a limited involvement there. Our fallback is with the Soil and Water Conservation Districts and the NRCS.

Mr. Bynum: Right.

Mr. Dill: There is an Agency that is supposed to be addressing those things.

Mr. Bynum: I am going to be asking for a separate agenda item about that issue after we do some more fact-finding.

Mr. Dill: Sure.

Mr. Bynum: It is related, but it is really not germane to this. I do not want to belabor this. I just want to say this is a process. We are working through a process. Part of it may lead to some regulatory burden, but we do not know what that will be yet. We do not know how extensive it will be. But we are not determining the safety of GMO foods. We are only talking about the practices of research that are occurring here. We do not need somebody to tell us whether this particular project is safe or not. We just need to know that if they are giving the data? I think that is what it will come down to. Are you providing the data that the law requires? We do not know is my point, and you have said that several times. So, I assume you agree. We do not know what the regulatory burden will be.

Mr. Dill: Yes, we do not know. As the Department is being charged with potentially implementing this process, my responses are coming from the standpoint of when it comes to me, I want to be able to deal with it appropriately and it is obviously quite a charge.

Mr. Bynum: I think your responses are perfectly appropriate at this stage. Thank you.

Chair Hooser: I have a few questions, Mr. Dill. The eight (8) people, I assume that is at the end of the process, not at the beginning of the process. The Bill calls for disclosure and buffer zones that will impact five (5) companies. The Department of Agriculture has one (1) employee for and pesticide use on the entire County of Kaua'i and they are doing it with one (1) person. I would hope that we could do buffer zones and disclosure with one (1) person or maybe two (2) people and then as the process moves forward, perhaps you may need additional people or perhaps you may not. But I understand how you are trying to look at the whole picture.

Mr. Dill: If I may, too? You are correct. I am well aware that the Department of Agriculture has one (1) Inspector on Kaua'i, but of course, they are supported by the Statewide Department of Agriculture in their efforts.

Chair Hooser: Right.

Mr. Dill: You are right. When I looked at the Bill, I am estimating a staff to make sure that we can take care of those issues in the manner that they are presented in the Bill. I assume that there will want to be inspections and regulatory activities happening proactively on this but all of those things will have to be flushed out.

Chair Hooser: The disclosure, just for the record, is the companies provide the information, we post it on the website, adjacent landowners are allowed to request the information which may or may not involve the County, and then the operations post signs. The sign postage might be some regulatory functions, but I believe it could be done, because I would like to minimize costs also. As you know, the Bill provides that we are able to pass these costs on as permitting fees to these companies. So, I think we would all like to minimize the cost to these companies because my expectation would be that they would be the ones paying for the regulatory activity. The EIS, as you mentioned, we do conduct EIS and we primarily use consultants, clearly it would take somebody to manage that, clearly it takes a process to help develop the scope-of-work and I think that is going to come up later. Regarding the Grading and Grubbing Ordinance, is it possible that that could be a vehicle if in fact there was a feeling among the Council that additional regulation was in fact needed? Let us say dust, could the Grading and Grubbing Ordinance, could a condition be placed in that Ordinance dealing with dust as a step towards some increasing regulation to control that activity?

Mr. Dill: Certainly dust is addressed by the Grading and Grubbing Ordinance. So, if the Council wanted to amend that to amend that Ordinance to address dust, then I would say certainly. But I do not think we should use Grading or Grubbing Ordinance to regulate GMOs or pesticides.

Chair Hooser: But for dust it would be okay?

Mr. Dill: Oh, yes.

Chair Hooser: If it was not a new giant new Department, all of this things, we could use the Grading and Grubbing Ordinance to deal with dust, the blowing of dust, and that kind of thing. Could we use the Grading and Grubbing Ordinance on pesticide issues, you think, in terms of disclosure. If we wanted to put in as amendment, if you want exemption from the Grading and Grubbing Ordinance, you have to disclose the pesticides use, your dust activities, and that type of thing?

Mr. Dill: I would have to go back and review the Ordinance. But my initial response would be that it is not the spirit or intent of the Grading and Grubbing Ordinance to manage pesticides.

Chair Hooser: But certainly, we could do duty?

Mr. Dill: Yes.

Chair Hooser: Great. Thank you. I think that is all I have. Thank you, and that is all that we have.

Mr. Rapozo: Mr. Chair, we just have one (1) round on that one?

Chair Hooser: Yes, one (1) round. I am sorry, we talked about that. Thank you, Mr. Dill. Of course, any members that want to talk to you at another time, you are more than willing and will take time to talk to them, I am sure, right?

Mr. Dill: Absolutely, you know where to find me.

Chair Hooser: Thank you so much. We are going to go on to the next round and I anticipate going to lunch at 1:00 p.m. So, we will try to get as many questions down as we can. We will do the ten (10) minute format. There are representatives of the five (5) companies that are primarily impacted. Arguably, this impacts the entire County. The businesses most directly impacted are these five (5) companies that are here today and they are in the audience. Members could ask individual questions of individual companies or anything that they want, all five (5), one (1) or two (2). If we could have all five (5) come forward, does that work? Do we have enough microphones for that, staff? Just three (3). Well, we will let Councilmember Kagawa start. We will let you just whoever you want.

Mr. Kagawa: Thank you, Chair. My first question is to Kaua'i Coffee, Wayne Katayama. If you want all of the seed companies – three (3) seats are here.

Chair Hooser: I think it would be easier if representatives from two (2) other companies. Could we ask staff to get all five (5)? That way it saves a little time of people getting up and down out of their chairs and perhaps we can pass the microphone? The companies can decide who they want to represent them. If the companies could introduce yourself when you address the questions. Some questions will apply to all of you, some may only be directed to one of you, and we will just have to pass the microphones back and forth.

Mr. Kagawa: Chair Hooser, I do not know if BC wants them to all introduce themselves first or just to introduce themselves as they answer questions.

Chair Hooser: Why do we not do it as they answer questions?

Mr. Kagawa: Before you answer the questions, if you could state your name so the captioner knows who is talking. First question, what was very glaring to me early on when we had the public hearing, actually we have a member in the audience that works for Syngenta and when Steven Kai talked. He brought up a solution that I do not hear too often from testimonies on both sides. He said he believes we can accomplish some peace and harmony in this whole thing by working together and coming to some kind of compromise. I think that is all what we want, for the seed companies to be good neighbors with our local neighbors who are asking for reasonable things. That is the word "reasonable." Like, when they are worried about how it is effecting their kids. Sure, that is what all of you want, right? I think Wayne, I guess for you, some of the testimony that I have gotten is from residents of Brideswood and I think that they have said that they are concerned about some drift and disclosure. I do not know if you can respond. Does Kaua'i Coffee have some solutions for those residents that can be done by Kaua'i Coffee through negotiations?

WAYNE KATAYAMA: Good day. The answer is yes and we have, in the past, handled requests by residents of Kalāheo for notification of when we do spray. So, it is not new for us. The only caveat that we put on is that we will

gladly notify you, but the actual application is really made on a very short notice obviously. It is dictated by the weather and the environment. The answer is yes.

Chair Kagawa: I do not know if that has been the case with Kaua'i Coffee, but I know that from stories that I have heard, that when notifications was given, like a window, there has been instances of complaints where people say, "Oh, I am sick, throwing up" and when they report it to the companies that it came from the spraying the night before, only to find out that the companies says it was windy and we decided not to spray. Is the fear of having those conflicts of accusations, which is one of the major problems with disclosing with the community response, I guess, is my question and that can be for any one of the companies?

Chair Hooser:

Introduce yourself.

MARK PHILLIPSON: I represent Syngenta. One the areas that you just brought up of communications, was that in 2009 when Councilmember Hooser was a State Senator, Syngenta voluntarily gave up Field 809 which was the filed next to Waimea Canyon School there, is one example and there has not been a reported incident since that time. Another example is we lease some land in Puhi and whenever we did spray, we notified the Homeowners Association there and we never had any complaints and we would give them the notification. But these are all voluntary measures, these are all things of communication, these are not things regulated by Ordinances or laws. It is like you said, let us just be a good neighbor, communicate, and tell people what we are doing.

Mr. Kagawa: I guess that is a place I want us all to be. I do not know if compromise will always work, but you cannot satisfy everyone, yet. I think we need to do more from the side of the seed companies because there is still a lot of local residents that I think, have legitimate requests. I think certainly it is going to take both sides working together. Wayne, can you just explain to me, because it is just obvious to me that this Bill actually, if members had their choice, they would want to take Kaua'i Coffee out of it because Kaua'i Coffee grows food, coffee, sells it worldwide and puts Kaua'i on its name and the product is a great product. But because of the Restricted Use Pesticides (RUP) issue, how important of a part is using Restricted Use Pesticides for Kaua'i Coffee? What is the difference between – we have heard that to use a Restricted Use Pesticide you need an applicator's license, is that basically just that or does it sounds more dangerous than a regular pesticide.

Mr. Katayama: I am not a pesticide expert nor herbicide expert. We are the user and again, from a very lay perspective, there are different levels assigned to the chemicals that we use. There is a caution, there is a warning, and there is a danger. The RUPs are basically classified as "dangerous," and for use, you need to be a licensed applicator or under the direct control of a licensed applicator. There are a lot of issues with that. Obviously, toxicity is one. Actually, the ability to find its way into waterways or whatever the restrictions are, the concerns are. At Kaua'i Coffee, we just use one and that is basically for sucker control. That means that we are burning – we use gramoxone, which is a contact herbicide. It burns anything with chlorophyll in it. As the coffee tree throws outgrowth at the lower levels, we want to eliminate that, so we use that for under-tree control. It is very direct and specific applications on how we use that. Generally speaking, we use very few herbicides. We use an algicide and a fungicide basically. The amount of chemicals that we use on the farm is very limited. It has to have "coffee" on the label.

Mr. Kagawa: Thank you. I guess my other request would be from any one of you, there is a lot of concern about dust drift, pesticide drift at night, wind drift, dust drift, do you think it is a reasonable request in some areas of your neighborhoods, maybe even highways, that we enact some kind of either in a Resolution or State law that defines what kind of wind break or dust screen that would be reasonable to have because I see dust screens in certain areas, natural or the black material, and in some areas there is none. I mean, it seems like that self-volunteering to put it up is being done, but it is not consistent throughout. Is that fair?

CINDY GOLDSTEIN: I am representing DuPont Pioneer. Hello everybody. The pesticide labels, and you heard people talk about this quite a bit, each individual compound that is used, each product, has a label that specifies based on information that is derived through science-based investigation in developing the product registration and in the first place, builds into that consideration of the types of buffers and the types of practices that will be required to be adhered to. It is currently built into each individual product and how it is used. There was reference to times of day where you make applications, some of that is actually based on fact what time of day are the wind speeds the lowest, so we are applying appropriately.

Mr. Kagawa: Are you saying that the dust screens, natural or manmade, are in areas following the label or is it being done to be a good neighbor?

Ms. Goldstein: It is being done to be a good neighbor. It is also part of our Conservation Plan that we have implemented and follow.

Mr. Kagawa: *Mahalo*, my time is up.

Mr. Rapozo: I kind of want to carry on because I know I keep hearing about the label. These labels are produced and I am assuming it is by the Federal government, are they cognizant of the Hawai'i weather versus the mainland weather? Our winds are different, I mean obviously, you all know that. It is not like the flat lands of Texas or Iowa. We have the mountain breezes. We have winds that can change like that and that is what makes Hawai'i different. Are these labels, and I am not label expert by far, do these labels take into account the difference here in Hawai'i versus wherever they test these things?

STEVEN LUPKES: Steve Lupkes with BASF. Yes, I think they take into account the effect of wind.

Mr. Rapozo: Not so much wind, but the Hawaiian wind, the Hawaiian trade winds versus wind in general because again, our wind speeds can change throughout the day, throughout an hour it change, and I have seen it. I have one of those things on my apps where it shows the wind and it will be here and then it will switch the other way then flip the other way. I guess, and it kind of ties into what Ross is saying as far as being good neighbors versus just being in compliance with the labels. I am just curious, do the labels take into account the trade winds versus wind speed in general?

Mr. Lupkes: My short answer would be yes, I think they do because I have done pesticide applications all through the Midwest and the wind does the same thing there. You can be out there and all of a sudden a front comes through and it switches and goes the other way. So, to think that the wind here is somewhat magical and does things differently than other places, I think is not true.

Wind speeds can carry particles a certain distance and it does not really matter the direction, whether they originated in the mountains or came out of the river valley. I think, it is just physics. Yes, I think the label, when they evaluate those products, how far will wind carry something, I think they do consider that.

Mr. Rapozo: Oh, okay. I would agree to the drift potential of these particles. But as far as the change and I guess more specifically, if a company notices the change in wind, I think that is the reason that a seventy-two (72) hour notice of application does not work because of the quick changes in wind. But the problem is there is no plan seventy-two (72) hours in advance to spray and within that seventy-two (72) hours or on the day of the spray, how does the people get notified currently, that there is going to be some application of some pesticides? How is that done today or is that done today?

Mr. Lupkes: Currently, we do not.

Mr. Rapozo: There is no disclose?

Mr. Lupkes: Just to our employees, not to the general public.

Chair Hooser: If I can ask you to speak a little bit louder. I am having trouble and people in the audience and people watching online, it would be helpful. Thank you.

Ms. Goldstein: This is Cindy Goldstein again. You asked, we get changes and how you account for that while you are doing your applications? We actually have an anemometer which detects wind speeds what are real-time. I do not know about other companies, but we have real-time wind speed information as we are doing applications and we strictly follow the label for what the wind speed it to be. It is not just that you take a wind speed every hour in some related geography, it is real-time.

Mr. Rapozo: Right, if the winds should change and it would affect drift, your applicators will stop the application? That is how it is now?

Ms. Goldstein: Yes.

Mr. Phillipson: Each piece of equipment has a wind direction and an anemometer inside the equipment that the operator is monitoring before and during their sprays. Just because they are supposed to spray Field 123 and it is scheduled to be sprayed at 3:00 p.m. or whatever time, that is where they are going to be. But if the wind direction is not correct or the wind speed is too high or if there is no wind, that is also an issue, if there is zero (0) wind. The conditions have to be right, is the point of this. Also, if the conditions are not right during the spray, they have the full authority to turn it off and stop and say, I was not able to complete that spray because of exactly what you said, Mel. I live in Hawai'i, the wind shifted, and it went the wrong way.

Mr. Rapozo: Then you referenced the Waimea incident, where you abandoned what was it Field 9 you said?

Mr. Phillipson: We call it Field 809.

Mr. Rapozo: Field 809?

Mr. Phillipson:
middle school.

Yes, that is the one that was adjacent to the

Mr. Rapozo: Right, and subsequent to that, you said that there were no complaints again? Is that ten (10) minutes? Oh, we are doing fine?

Chair Hooser: No, it is half way.

Mr. Phillipson: Can I answer that?

Mr. Rapozo: Yes, go ahead.

Mr. Phillipson: Yes, and also we have controlled for Stinkweed in that area as well. As Councilmember Bynum said, whether it is hysteria, Stinkweed, or pesticide overspray, we know we have eliminated two (2) of them.

Mr. Rapozo: Well, I did get to meet with the teachers at Waimea Canyon. In fact, Councilmember Nakamura and I met with the teachers out at Waimea Canyon, and I am just going to be honest. I do not think it was the Stinkweed. I think, and the fact that you removed the field from the production and the complaints stopped, I think was the right thing to do. I guess I am asking for the other companies, is that something that we are doing? That when, in fact, we have concentrated complaints for specific areas like we did for Waimea Canyon, is that something we are doing where we take that field out of production or at least giving it a break to see if there is any connection to the complaints? Is that something that we do on a normal basis or is that something that we do not do? Anyone, it does not matter.

KEITH HORTON: I could speak to that. I am Keith Horton from Dow AgroSciences. We currently have three (3) fields on our farm that we have not farmed just for that reason because we want to be good neighbors. I think that has helped us out a lot. If you look at beside the Church, that field has been barren since the sugar cane left. The preschool, we have only put sunflowers in there one time. The sunflower are great and you may do two (2) applications the whole season on sunflowers and then by Kaumakani Village, we have a field that is directly adjacent to a row of houses and we do not farm that land voluntarily.

Mr. Rapozo: Anyone else?

Mr. Phillipson: I think I gave our examples already.

Mr. Rapozo: Yes, I got yours.

Mr. Lupkes: I cannot say that we have had any complaints, but I think our approach would be to go talk to the individual and find out what we can do to work together to resolve any issues, whether that is a solution or not, I do not know. But the key would be to sit down and talk to that neighbor and say let me explain what we are doing, why we are doing it, is there some middle ground that we can find, and so on. But we have not had any complaints.

Ms. Goldstein: We do address complaints, if we get a phone call, we follow-up. We try to understand what the person's concern is. We have, in fact, at times planted a vegetative barrier where then had a neighbor has complained that it has impacted their view or impacted something about their

normal course of activities. So, sometimes you do something to satisfy one scenario that then another neighbor does not like the fact that a vegetative barrier was placed there for farming practice impacts.

Mr. Rapozo: But as far as taking a portion of that field out of production, that is not something you that folks would do or would consider?

Ms. Goldstein: We do always consider where our fields are located and we do move plantings around to different parts of fields. Fields are very large, so we will use different parts of the field.

Mr. Rapozo: I am just asking these questions because in the discussion that I had with the community, that is what they are asking for. Buffer zones around every single road and ditch and that does not help. Some areas may require a larger buffer, some areas may not need had a buffer, and that is why I think the blanket buffer does not reach the desired results. I can tell you that Councilmember Kagawa and I went up to Waimea Valley and there is a field above the valley that the buffer zone should be huge because of what we saw in valley. We saw the effects of what I believe is pesticides that are actually making its way down into the valley and browning up the banana trees. I mean I can only assume that. I am not a scientist and I am not an expert. But there are different areas that require different sets of parameters as it relates to the environment that is next to that field. But it is clear to me, and I appreciate when you leave out that area next to neighborhoods and schools and so forth because you just eliminate the problem altogether and there is no opportunity for drift, and that is kind of where I am heading, is how do you address that?

Mr. Phillipson: Councilmember, when you get those reports of suspected browning of trees and they think that it might have been caused by us, we certainly would like to be cognizant of that to do the investigation or have the Department of Agriculture do the investigation because that is certainly not why we are here, is to cause any harm to anybody or the health of anybody. We would certainly like to be informed of those instances.

Mr. Rapozo: Thank you.

Chair Hooser: Councilmember, we are going to go to Councilmember Yukimura.

Ms. Yukimura: Thank you, gentlemen and lady. Thank you very much for answering the questions that I sent you in writing. I appreciate the willingness to give us help in understanding these issues. Dow has already provided it, but I was wondering if the other companies would be willing to give us the RUP active ingredients applied in 2012. Would you able to submit that as additional information by pounds?

Mr. Lupkes: You must not have read our response thoroughly. I think we did.

Ms. Yukimura: Did you give that in response? I am sorry. BASF did that. Thank you. I guess DuPont Pioneer and Syngenta.

Ms. Goldstein: We know that the State legislature did pass recent legislation where Restricted Use Pesticide sales records are going to be provided on a publicly accessible website. Our use reflects that very closely. We purchase those compounds, then we make use of them on our various farms, and

that information is something that will be publicly available. When we look at this, we think there needs to be a broader comprehension and understanding of how these compounds fit into our overall pest management schemes. Just to provide a list of compounds, we do not think that is a complete understanding of how they are used, what context of our pest management is where in fact, we may make decisions where we do not need to do pest control. We only do as-needed, where needed, and when needed. We also look at other alternative ways to make this information available. For instance, we have talked about community discussions, a community group that may be acting as a Pesticide Advisory type of group. There is a State Pesticide Advisory Board already. Department of Agriculture (DOA) has the posting that we know is coming from this Bill that has passed. We would like to be engage in discussions about mechanisms where that would occur.

Ms. Yukimura: The 2012 information could not be made available? I see that it might be forthcoming, although I am told that there might be issues with trade secrets or something like that from the DOA. The DOA has told me that. So, the answer is "no" from Pioneer.

Ms. Goldstein: The answer is that it warrants further discussion and we believe there will be further discussion.

Ms. Yukimura: How about Syngenta?

Mr. Phillipson: Yes, and we are in the understanding that Act 105 and the State legislature is in play and that those compounds should be listed.

Ms. Yukimura: Well, I do not know if the whole system is up yet. I am not sure that the 2012 data will be included. The question is whether you would make 2012 data available?

Mr. Phillipson: Well, we are going to make it available through the State. I am assuming if we are going to do it through the State, through the channels of distribution, that it would be public information.

Ms. Yukimura: Alright. This is for Syngenta, I guess, Waimea Canyon School, Field 809.

Mr. Phillipson: Yes.

Mr. Yukimura: Your admirable decision to not farm in that field, will that meet the five hundred (500) foot buffer?

Mr. Phillipson: It actually exceeds it, yes.

Ms. Yukimura: It exceeds it, okay. The question about dust, which I guess has been mainly an issue for Pioneer but not only for Pioneer. Has no-till practice been considered as a matter of dust control?

Ms. Goldstein: No-till agriculture in the way that I understand it is usually implemented, actually has to do with part of your planting scheme, that you are planting into the stubble that was left after the last planting. It is actually a lot of that practice has been tied into use of the Roundup ready gene, the herbicide tolerance gene, and that being part of an overall planting practice which is not necessarily the way it would be applied here. But you will see in our fields we certainly have cover crops on those fields when they are not in our crops

that we are providing for seed and we leave sometimes, stubble in the ground where you will harvest the corn, but you still leave some root material in the ground that is keeping soil in place. I think no-till agriculture in this sense, might mean after you harvest you still leave some stubble material in the ground or have cover crops as a different principle, but it may accomplish the same goal.

Ms. Yukimura:

Others may answer.

Mr. Horton: For us at Dow, we have done no-till here on Kaua'i. It does, as Cindy says, you are planting in between that previous corn crop so you have stubble there and that is the point, is it keeps the soil in place. It gets difficult for – we are parent seed, so we can come in with a crop right behind the previous crop. Where we cannot do that, we put in a lot of cover crop. We have close to five hundred (500) acres of cover on the farm currently and that definitely helps out with dust. We have even done examples of where we have run a crop in between the inner row with the cover crop in and of itself. It is something that I am really excited about it and we did about thirty (30) acres of it in 2013, earlier this year and we will do more of it as we go forward. Drip irrigation makes it hard because in the mainland, everything is all Mother Nature does the irrigating for you so you do not have to contend with removing that drip from the previous crop.

Ms. Yukimura:

I see.

Mr. Horton: We had some struggles there, but the more of that we can do, we are going to do it.

Ms. Yukimura:

Thank you.

Mr. Phillipson: We also are involved in that as well, no-tilling. I think that your question, if you do not mind, leads to a bigger one, is what our farming practices is? We have been accused that we are not even farmers. Our farming practices are such that we would invite a blue-ribbon panel to come out and examine our practices and processes and look at exactly what we do, so that we could remove this cloud that is over us that we are not doing things in the right way or doing them improperly or just haphazardly. We are professional agricultural companies. This is our business. I would really welcome that so that we could show to the public and to the Council that those standards are in play.

Ms. Yukimura:

Thank you.

Mr. Lupkes: We are not currently doing any no-till. It is a little more difficult for us. We do not have the large fields that these guys do so ours are small nurseries and it is hard to plan things to fit just right on a previous crop. But we are putting a lot of cover crop in, which kind of functions as the same thing. You get a cover crop established and we do not no-till into it, but we can till it just before we need to plant it and keep that residue there. So, similar benefits, but not exactly no-till.

Ms. Goldstein: Councilmember, I know you asked about no-till, but we also, just in terms of managing weeds will sometimes just mow. There are a number of practices and we use that do not necessarily involve the types of things that people think of as how you would control a pest or a weed. But we would simply in some cases, actually mow as a way of weed control.

Ms. Yukimura: I think Cindy, you mentioned vegetative barriers which means wind breaks or some kind of barrier against dust and pesticide drift, something that would capture that?

Ms. Goldstein: I am familiar with two (2) types of vegetative barriers. One type is something called "vetiver grass" and the way it grows like lemon grass where it is very thick at the base. You plant vetiver grass in strips in certain places to slow down the movement of soil particles and have the soil particle sediment. This is part of conservation plans.

Ms. Yukimura: Against runoff?

Ms. Goldstein: Yes. It is a recommended agricultural practice. The other use of the term vegetative barrier would, in fact, be something that might be fairly tall and thick that would impact movement of wind. We use both of those types of practices.

Ms. Yukimura: Have you ever used vegetative barriers for – and this is my last question, I guess, vegetative barriers for markers of drift? I mean, so if they start dying you know that pesticide drift is reaching there?

Ms. Goldstein: I think that is a very good question and something that we actually use as an example. Sometimes we get into all of these minute details and we forget the practicalities of just what we see every day. We have herbicide tolerant and non-herbicide tolerant crops that we grow. If we were having drift of herbicide, we would be the first ones to see it because we have fields planted adjacent to one another where one may be herbicide tolerant and one may not be, and we would certainly see that and recognize that ourselves. These sorts of just practical sorts of ways of knowing that we do not have this type of drift occurring because we do not see it on our own farms with the different crops planted near each other.

Ms. Yukimura: Thank you very much.

Chair Hooser: Councilmember Nakamura.

Ms. Nakamura: Thank you. First of all, a question for all of you, do you have plans to expand beyond the Kalepa or the Hanamā'ulu area, north of the Kalepa or Hanamā'ulu area?

Mr. Lupkes: BASF has no plans at this time to expand acres.

Ms. Nakamura: Thank you.

Ms. Goldstein: Pioneer would not expand acres, however there are times when there are fields that we are farming that may be – we lease our land. A landowner may in fact decide that they want to have that land used for a different purpose and we might regain those acres by looking at acres in another location. I will say that we have looked at the Kalepa parcels that ADC has and we have looked at that and shown interest, but we have not committed to anything. We always want to have options and we have people approach us periodically, entities asking us if we are interested in land. We have shown an interest, but there is certainly nothing beyond that.

Mr. Phillipson:
time, Syngenta.

We have no plans for additional lands at this

Mr. Horton:

Dow does not either.

Mr. Katayama: Kaua'i Coffee, our trees are planted and they have been there for twenty-five (25) years and they are not moving. At least I hope not. We are though, looking at freshening our fields. The biggest mortality to our trees is our harvesters. We are getting areas that the tree populations have diminished and we are looking at freshening the areas or replacing areas right now. We are on a new planting program where we would literally stay within the same geographical area, but plant new land.

Ms. Nakamura: I have a question for Wayne. Regarding the five hundred (500) feet buffer zone impact on your coffee farm. Can you talk about the residential areas that might be impacted?

Mr. Katayama: The buffer zones as currently stated in the Bill impact us tremendously. If we can separate the roadways and the waterways and focus on the residential, schools, I think that is two (2) separate issues. Now, for us, we are bordered by 'Ele'ele, Brideswood, we have some homes in Kalāheo, and most notably our camp and our office area is in the middle of it. Again, that is all from the traditional legacy of sugar operations. We are basically occupying the old McBryde office and the old Numila campsite. So, that is a bit problematic for us, and again, we do not have the ability to move trees. Therefore, the buffer zones will really diminish the size of our ability to farm, directly. It takes at least seven (7) years for coffee to become productively bearing. It is not something that we can replace right away. Really, our vision to freshen the farm is our outlook for the next twenty (20) years basically. So, things that we are doing today really are for our anticipated business ten (10) to fifteen (15) years out.

Ms. Nakamura: Just to follow-up, if you take away the public roadway requirement, the five hundred (500) foot from a public roadway, does that preserve more of your farm?

Mr. Katayama: I think if we develop a buffer that is science-based rather than a five hundred (500) foot and that would be helpful as well. I think this is where we need discussion and people sitting together again looking for reasonable conclusions.

Ms. Nakamura: The Camp Numila residents, they have historical ties to that area?

Mr. Katayama: They are basically legacy residents which again, we do not own any of the land. Ownership is vested with Alexander & Baldwin. It is their former sugar employees that reside there.

Ms. Nakamura: How far are they from your field, the closest field?

Mr. Katayama: There are several that are adjacent to our fields, along the road that goes down to the main office area.

Ms. Nakamura: If we were to pursue this section in the Bill, if we made an amendment to recognize that legacy community, would that help?

Mr. Katayama:

Tremendously.

Ms. Nakamura: Questions to Pioneer. Some of the concerns that I have heard recently from touring your facility about wind barriers put up, tree plantings done, not using the periphery road, but I guess what I am hearing now is that some of the wind barriers have been knocked down, that the plants are not growing, and that you are continuing to use the periphery road right up to the ridge. Can you let me know of what are the best practices that you are using to reduce dust in this area?

Ms. Goldstein: I will need to follow-up with you on that. I know that we planted two (2) tree species along that ridge and that we do have policies about using roads and we have moved further away from that ridgeline. I will really need to follow-up on this and would be very happy to do that.

Ms. Nakamura: It would be good to get that information because I think it is from people below looking up and saying those trees do not look like they are thriving.

Ms. Goldstein: Well, they grow slowly. For people that know Norfolk Island Pine, they grow fairly slowly. We also planted a second species that grows more quickly. But yes, I believe that is something that we will be able to follow-up with.

Ms. Nakamura: Thank you. I guess this is open to all, the disclosure portion of the Bill, I think you folks already put up a lot of information for your workers in a centralized location. It was just mandated by the State and EPA. If this information is already out there and used, do you have any concerns about making those forms that you give to your workers so they know what fields will be sprayed and when, to make it public on a County website?

Ms. Goldstein: Well, as was mentioned before, giving information ahead of time can be difficult because the weather can change. For us, we monitor the pest populations closely and then determine what is needed, when it is needed, and look at what our different options are. So, to do this ahead of time would be difficult.

Ms. Nakamura: Right. I know the seventy-two (72) hours is an issues, that is what I have heard from everyone.

Ms. Goldstein:

Yes.

Ms. Nakamura: do not you?

But you post it the day of for your workers,

Ms. Goldstein: Yes, but given the fact that things can change. As far as what sorts of information, there is a lot of information on the forms. There may be a subset of information that really is relevant and pertinent.

Ms. Nakamura:

Thank you. Any other comments?

Mr. Katayama: We are willing to disclose and I guess it is what information do you really need? Again, we have information for different people, for different uses, and different needs. Again, if we could understand what the needs are, we could on a post-application, definitely post it and on a pre-applicatoin there are going to be caveats that it may not happen.

Mr. Lupkes: The context is really important and just to dump out a lot of information like the gentleman mentioned before mentioned, garbage in/garbage out. There needs to be some context to it and I think we would like to work with a community group or somebody to say what kind of information and do it more voluntarily.

Mr. Phillipson: I think there are two (2) components to it and it is not so much trade secret, but competitive knowledge. If we have a similar pest problem amongst the company and we drive by Pioneer's fields and see that theirs are really thriving and doing well and ours are not doing so great and we see what they are putting on product A, B, and C, we should try product A, B, and C. It is not so much it is a trade secret, but it is more competitive information, that is one aspect. The other is I kind of agree with Steve, is what is the purpose of the information? Is it put into a context? Just to say that we use one hundred (100) pounds of product *x*, what does that really do for anybody? The dilution rate, where is it sprayed, is it over ten (10) acres or is it over one hundred (100) acres? We are open to discussion, I think, but you have to be realistic about it, too, I think is part of it.

Ms. Nakamura:

Thank you.

Mr. Horton: For Dow, we do give notification to the workers and that will change. Like Councilmember Rapozo said, there are micro climates on our farms. So, you can go down to the *makai* side and there is not wind, you can go up top and there is a lot of wind. The pre-disclosure gets very hard. Post disclosure, for us, we are more than open to voluntary disclosure within the community and kind of what makes sense for the community. What does the residents of Kaumakani and Pākalā Camp, what do they want to know, and that framework, the post-disclosure for us, we would be more than willing to accommodate requests from the community.

Mr. Phillipson: I would add that we are pretty much out on the Mānā plain and the two (2) neighbors are Pacific Missile Range Facility (PMRF) and the shrimp ponds. Just to let you know, in sixteen (16) years that the shrimp ponds have been there, there have been no reports of any killing or any damage.

Chair Hooser:

Councilmember Bynum.

Mr. Phillipson:

Well, they did not float to the top.

Mr. Bynum: Thank you all for being here today. I appreciate it, and thank you to those who I met with individually so far. I am working this Bill. I am working at trying to find the pragmatic, practical solutions that I think we all want and I need your help to do that and those of you who have helped out already, I appreciate that. I will have some amendments today that we can discuss this afternoon. I hope that other Councilmembers are doing the same in trying to resolve these issues. But I do have a few questions. First of all, what date was that field abandoned, Mark?

Mr. Katayama: I think we delivered that letter to Councilmember Hooser in the first week in January 2009, somewhere around the timeframe.

Mr. Bynum:

Prior to the study that was done?

Mr. Katayama:

Oh, yes.

Mr. Bynum: Cindy, you have heard me say as much as four (4) or five (5) weeks ago, that a preliminary analysis of the data that was received by DuPont Pioneer shows very frequent spraying on the same field, as many as over two hundred (200) times. Do you disagree with that?

Ms. Goldstein: No, I am glad you brought that up in this public forum because I...

Mr. Bynum: Can you give me a "yes" or "no," please?

Ms. Goldstein: Yes. Our fields are portions...

Mr. Bynum: Are divided into small fields, I understand that.

Ms. Goldstein: They are small section and we would welcome you to come for a visit to see how our fields are laid out. What I would say is the numbers you have, we need to look at the relevance and context of the field and when you say "the field was sprayed," it might have been a very small portion with a few hundred plants. Our fields are a field then with small plots and planting within.

Mr. Bynum: Cindy, I am more than willing to have that discussion. I understand that there is a field registered by the State and that you divide it into subplots.

Ms. Goldstein: Yes.

Mr. Bynum: And you treat each of those as a separate experiment, and the uses overlap. I understand all of those things, but you are not disputing that one (1) field can be sprayed over two hundred (200) times on average by your company according to that data, is that correct?

Ms. Goldstein: I have not really looked at how that data was calculated or derived.

Mr. Bynum: Okay, I will take that. I am going to be honest, I am a little worried about saying these things until I have an expert who can analyze the data, but we do not have that kind of expertise, apparently, in the entire State from the things that I heard today. I appreciate that answer. Was there a time that DuPont Pioneer operated without a registered Conservation Plan? Was there any period of time?

Ms. Goldstein: So, that is a subject of current litigation. We do have a current Conservation Plan. We have people come for site visits. We had the Conservation District Group come visit. Our current practices are things that they have found to be very good practices. But I cannot...

Mr. Bynum: Was there a period of time that you operated without a Conservation Plan?

Ms. Goldstein: I am sorry, Mr. Bynum, but that is a current topic of litigation.

Mr. Bynum: Thank you. In order to understand the impact of buffer zones which clearly need clarification, that is the normal process of

doing a Bill like this. You get feedback from the impacts parties, you dialogue, and make reasonable changes. That is what I am trying to do and it would be very helpful to me because the County apparently cannot give me this information either of where you have leases, what Tax Map Key (TMK) your companies have leases. Can you provide that information to me?

Ms. Goldstein: I will look into that. I will look into where that is in terms of whether it is already public record that we are aware of.

Mr. Bynum: It is public record and just to give you an analysis, Kaua'i, we do not collect the data. We do not put it in a spreadsheet. If you do not even collect the data, you cannot analyze it. For me, as a Councilmember to say, "Tell me who is leasing what on this island and when?" It takes several months to get that information, it is a very large frustration. All of you can cut through that. I would just like you to tell me, it is public record where you have leases and I do not mean this moment, but in the next few days, if you could send me an E-mail saying that these are the TMKs that we lease and from what dates, then it would help me because the buffer zones are going to impact each of you differently because they are not based on having twenty percent (20%) affect each company. They are based on where you are doing the operations.

Ms. Goldstein: I would like to inform that...

Mr. Bynum: I am engaged in that process and I would like your help in continuing. I have met with Kaua'i Coffee and BASF. I am just asking for that. You do not have to answer me know. Please help me with the data.

Ms. Goldstein: I would like to inform the conversation by telling you that our land leases change and we move around which leases we have and what we are currently farming. So, just to inform the conversation, that what we do now may not be a predictor of the future and may change over a period of several months.

Mr. Bynum: Well, I think at some point I will be able to say, "Hey, for your operations, based on the Bill as amended, this is the impact of the buffer zones." But I need that. That is part of the process that we obviously need to do, right? I would appreciate that. Any assistance with that. For now, that is all I have. Thank you.

Chair Hooser: I have a few questions. Thank you all for being here and we are heading towards lunch so we all should be happy with that. In a follow-up, I think Councilmember Kagawa started the train of thought about compromise or meeting halfway, that kind of thing. Several people, including many employees have said can we not all work together? Can we not compromise? Just looking at the various provisions on the Bill, let us start with disclosure. Can any of you agree to the disclosure provisions contained within the Bill as it is written? No? I will take the silence as a "no," is that fair? Can any of you I did disclose to me the amount of General Use Pesticides (GUP) that you use on an annual basis, not General Use Pesticides being not Restricted Use Pesticide. I got that information and we shared it. But on the General Use Pesticides that you use on an annual basis, are any of you willing to disclose that amount? I will take that silence as a "no" also. You can see maybe a little bit of the frustration that the community might feel and when the doctors in the community do not know what is being applied either. The buffer zones, if the buffer zones were amended to take out drainage ditches, irrigation ditches, and only focus on streams where living things are in there or reach the ocean and take out interior roads and only leave in State

and County roads, which was the intent in the first place. If they were amended would any of you be able to accept the buffer zone requirement? So, I will take that as a "no" also. The open-air testing of experimentals. Are any of you using experimental pesticides or have experimental use permits as defined in the Bill at the present time? I will take that as a "no," unless you were going to say.

Mr. Phillipson: No, not as defined in the Bill.

Chair Hooser: As defined in the Bill is my question.

Ms. Goldstein: We were asked some questions about this which we responded to very specifically on that. I think part of it, too, is the descriptor term that was used for experimental pesticide was not something that we fully understood. But for experimental use permits we had received a letter of request of information and had responded to that twice.

Chair Hooser: But at the present time, as defined in the Bill, none of you are using experimental or have use permits?

Mr. Phillipson: We currently have a Federal experimental use permit for a pesticide which involves a pesticide when you use a pesticide for one product and it is not approved on another, i.e., we have one that is approved for corn and other products, but it is not approved for soybeans and we are using it on soybeans and that one is almost concluded.

Chair Hooser: Would the prohibition of open-air testing prohibit you from using that pesticide?

Mr. Phillipson: As I interpret your Bill, I believe so.

Chair Hooser: As the experimental Genetically Modified Organisms are define in the Ordinance, what amount of land do you have currently under cultivation that meets the definition where you are growing those experimental Genetically Modified Organisms? You have x number of thousands of acres, how many acres are you using for the experimental GMOs as defined in the Ordinance?

Ms. Goldstein: We did respond to that question.

Chair Hooser: You said a small amount. I am looking for an acreage.

Ms. Goldstein: In response to Councilmember Yukimura's letter we give a range of acres. Again, the term experimental Genetically Engineered crop is not something that is a terminology that is used to define these. But we looked at that perhaps meaning regulated Genetically Engineered crops and did give a response to that. It is a small number of acres and for us it can range anywhere from fifty (50) to one hundred fifty (150). It depends on the year, the season.

Chair Hooser: This year and this season, this time right now?

Ms. Goldstein: Right now, we are actually in between seasons and planting is just beginning. Now it would be very, very small.

Chair Hooser:

So less than an acre?

Ms. Goldstein: I do not want to commit a figure that might be incorrect. But I believe it would be twenty (20) acres plus or minus.

Chair Hooser:

So, Pioneer twenty (20) acres.

Ms. Goldstein: But at this particular time and it varies by year and time of the year.

Chair Hooser:

The other companies?

Mr. Phillipson: Right now we are at a low period. I would say probably five percent (5%) of our acres.

Chair Hooser:

How many acres is five percent (5%)?

Mr. Phillipson: Well, we are farming about five hundred (500) acres right now.

Well, we are farming about five hundred

Chair Hooser: So, fifty (50), twenty-five (25) acres would qualify for the...

So, fifty (50), twenty-five (25) acres would

Mr. Phillipson:

About twenty-five (25) acres.

Mr. Horton: With Dow, I am guessing around twenty (20) acres, but I can get you the exact acres.

With Dow, I am guessing around twenty (20)

Chair Hooser:

Thank you. Was there one more response?

Mr. Lupkes: I do not know the exact acres. It is very small right now at this time of year. It is very low. If you are asking and the reason for asking this question is to understand the impact on our business, I think it is inaccurate.

I do not know the exact acres. It is very

Chair Hooser:

It is what?

Mr. Lupkes: It is not very useful because our business is a little different than theirs. We are always into new products and new development. Basically, if the moratorium stops new development, it is like asking a car company not to design new cars for two (2) years.

It is not very useful because our business is a

Chair Hooser: This is about the prohibition of open-air testing.

This is about the prohibition of open-air

Mr. Lupkes:

I know.

Chair Hooser:

What would be the acres?

Mr. Lupkes: I do not have any number. It would be very small.

I do not have any number. It would be very

Chair Hooser: Small as in five (5) or ten (10) or one hundred (100)? Five (5) or ten (10). I hate to rush but I only have ten (10) minutes too like everybody else and we are going lunch. I believe you addressed this question and I was sidetracked on your expansion plans. I believe the first two (2)

Small as in five (5) or ten (10) or one

said you do not have any expansion plans, Pioneer said you are looking at Kalepa and possibly discussions.

Ms. Goldstein: We always look at what our options are. We have no plans to expand in terms of numbers of acres.

Chair Hooser: In terms of moratoriums impact only the number of acres that would be minimal or no impact at all according to your present plans, is that correct? I do not want to take silence for a no on this one because you just said you do not have plans to expand. If the moratorium affected primarily expansion of your land, the moratorium would have no effect on your plans.

Ms. Goldstein: I think this is some of what we need more clarity on. When I read through that several times, it meant to me new products coming in.

Chair Hooser: My question, if we are talking about expansion of your lands, so if we assume that for a second, then the moratorium would have no impact at all on your companies, based on what you just said because you have no plans to expand. A follow-up question, many people have requested me about Keālia. Are any of you in discussion or have you been in discussions with Keālia owners in terms of expanding your operations of Keālia?

Mr. Lupkes: No.

Chair Hooser: Silence is no? The temporary moratorium, if it was just on expansion, would you be able to support that if it was just on expansion of lands?

Mr. Phillipson: I want to clarify Councilmember, that it is not expansion of product development, but just an expansion of acreage, is that what you are saying?

Chair Hooser: That is my assumption at the moment. The question is based on that assumption. If moratorium was focused on expansion of lands, would you be able to accept the moratorium? My clock is ticking?

Mr. Phillipson: I just think the idea of moratorium on a business is one of handcuffing.

Chair Hooser: I understand. Again, we are looking for common ground and I think it is there are issue in the community. We are trying to look for resolutions. The EIS or an EIS-like study, if the County decided to embark on a comprehensive, robust study of the impacts of the industry and the pesticide use in our community, would you also oppose that? The silence can also be a no.

Ms. Goldstein: We would certainly like to have this go back to the agencies that are tasked with the oversight, that already, for instance with Genetically Engineered crops, USDA already collects...

Chair Hooser: I am going to interrupt you for a second. The question is would you oppose the County conducting a robust comprehensive study on the impacts of the industry, with the caveat it does not cost you a dime, do you oppose that or do you support that? That way I will let your silence be a no. It is up to you.

Mr. Phillipson: You represent the County, so you should represent what the County wishes. I do not know why we have a say in that or not.

Chair Hooser: In terms of supporting or opposing it, you would not oppose it if the County decided that they wanted to do something. In previous testimony we were told that every single element of the Bill was being opposed and I am just trying to get clear on this. I am out of time. We can go to lunch now and come back. If you folks – and I want to send you gentlemen my apologies. If you are available to come back after lunch, we do have more questions, I am sure. This is really the first time we have had a robust discussion on this. We have had other testimony, but if you are able to do that great. We will come back from lunch at 1:55 p.m. according to this clock. Before we adjourn for lunch I have an announcement. Any of you wearing wristbands, you have to be back after the break otherwise you will lose your seat. If you are leaving for the day or would rather be outside rather than inside, please inform the staff at the table downstairs. There are plenty of people who would like the seats. Thank you very much. We will go to lunch.

There being no objections, the Committee recessed at 12:53 p.m.

There being no objections, the Committee reconvened at 1:56 p.m., and proceeded as follows:

Chair Hooser: We are going to call the Committee Meeting back to order.

There being no objections, the rules were suspended.

Chair Hooser: We are going to continue with the second round of the Councilmembers' questions. If the gentlemen and the lady could please come forward again. I do not know why I always want to say Representative or Congressman. Councilmember Kagawa will have some questions on the way. Thank you all for your patience. Thank you to the audience for your patience and good behavior from everybody. Councilmember.

Mr. Kagawa: Thank you. I just want to follow-up on the statement about the trees that are overlooking the Waimea Ridge from Pioneer because Councilmember Rapozo and I were just there. I think that was last weekend on Saturday with the people from poi factory and we noticed that there was a tree lines and we could see the black fencing material. I guess that was done in response to public complaints about dust control.

Ms. Goldstein: Yes, we have had a dust fence there for quite some time and the trees planted as well.

Mr. Kagawa: How long was the dust fence there?

Ms. Goldstein: I need to look back, but I am thinking somewhere in the end of 2010 or early 2011.

Mr. Kagawa: Statements were made by some of the farmers and residents there that they got their houses cleaned from Pioneer in past?

Ms. Goldstein: In the past, the sugar plantations I understand used to do that.

Mr. Kagawa: The seed companies did not at some point clean?

Ms. Goldstein: Not as a policy. Now, I know sugar cane because we would hear that in the past that had been done with sugar cane operations, but we do not have a policy for that.

Mr. Kagawa: You said that the trees were young. Actually, they looked dead. The trees right on the ridge that you can see from the bottom.

Ms. Goldstein: We will take a look at that. I know that there were two (2) species of trees planted and there is drip irrigation lines where they are planted. But we will certainly take a look at that.

Mr. Kagawa: The thing is that the complaints were kind of coming on. I just got aware of this whole class-action lawsuit and what have you, maybe, two (2) months before I got elected. For me, to be a recent resident in the valley, a life-long resident of the West Side, I was kind of surprised that I only knew about it maybe a couple of months before the election. But when you have a class-action lawsuit, a lot of times it is because there has been a long history of residents and Pioneer trying to work things out and I guess it build to a frustration point that they felt they had to do it.

Ms. Goldstein: My understanding is that we had already planted cover crops, planted those trees along the ridge, and installed the dust fence, and that the suit was filed after all of those things were put in place. But I would have to look at the timing.

Mr. Kagawa: I am just concerned. I was hoping that after the class-action lawsuit came that Pioneer has not had the attitude that now they are suing us, so we will no longer water the trees. I am hoping that. For the trees to become that big, somebody was taking care of it. I mean, you can see it is strategically planted near the dust fence and it is tall. It was taken care of probably for some years, but now it looks dead. Maybe they are not watering it.

Ms. Goldstein: There are irrigation lines that are right there.

Mr. Kagawa: Irrigation lines are there? How is it dying then if it is being watered?

Ms. Goldstein: I do not know the answer to your question.

Mr. Kagawa: If you could check, I would appreciate that.

Ms. Goldstein: Sure.

Mr. Kagawa: The other question I have, if I could have a quick one with Mr. Kai. Steven, if you could step a quick one to a microphone. I want to bring him up because he was one of the few testifiers that did not speak only for one side. Pass or fail, he said that he believed a more long-term and harmonious solution would be to compromise, let us it down, and work together like Kaua'i people always have shown. I guess Steven, what kind of compromise do you

think can be worked out with disclosures, with buffers, or maybe with dust or pesticide control from wind?

STEVEN KAI: Number one, I need to qualify that I do not represent Syngenta in this discussion. I am speaking as a private citizen. In all of the years that I have been on Kaua'i, the thing that really has impressed me about Kaua'i is that people work together and they always work together for the common good. That is probably the most disturbing thing about this particular Bill. We have drawn a line in the sand and we cannot seem to figure out how we need to work together. This is my experience, the first time I came to Kaua'i – I grew up in the Big Island. I worked in sugar plantations for a long time. The first time I came to Kaua'i, I got involved with the Kaua'i Economic Development Board and they did the Aloha Ike program. This is a small community, but I was impressed by the fact we could raise over one hundred thousand dollars (\$100,000) for education across a wide spectrum of all different businesses, all different interests, and things like that. I look at this particular situation and I look for opportunities for us to work well together, whether we are talking about organic farmers or whether we are talking seed farmers. I think the seed farmers bring a lot to table. The fact that we support a lot of the infrastructure because we can afford to, that affords us the opportunity to do a lot of things. I can tell you that on O'ahu we have cooperative agreements with other farmers who in this particular case grows watermelons and he comes down to our land, and Mark can explain the process to you. He comes onto our land in the offseason and produces a crop of watermelons. I see no reason for us to continue those types of cooperative, collaborative arrangements here on Kaua'i. I think Kaua'i actually lends itself to those situations. I do not have real specific answers for you, but I just believe that if everybody makes the attempt to work towards the common goal, if anyone is going to be successful, it is going to be us on Kaua'i.

Mr. Kagawa: I guess my follow-up is, when we talked to the Governor and Bruce Copa, their main concerns were the local residents' complaints who are right next to it that they want to know what they are spraying, when they are spraying, and whether or not their health is being affected and the long-term environmental impacts. Do you think we can work together without passing a Bill and work together, maybe on a roundtable and come to some kind of agreement that maybe we can do some good in settling the local people's minds that the environment is good and their health is good, or that we respect their right not to have spraying right next to them? Do you think that can be done?

Mr. Kai: I think in all my experience, whether we are talking sugar or when I was within the seed industry, I think we get numerous cases of us being good neighbors. Wayne mentioned a couple of times the situations where we have notifications to our neighbors whenever we are doing tillage or we are doing spraying and those kind of things. We have worked on those voluntary type arrangements for many years with pretty much everybody being satisfied. If they had a complaint, we would address the complaint and communicate with them whether sugar. I can remember previous assignments where we had our people go out to the neighborhoods before we started our operations and meet with the people and leave contact numbers. Being good neighbors is what it is, whether we are openly communicate. It is a two-way thing. If we ran into a situation that the only thing we are accused of is poisoning people and poisoning our kids, it is tough to work in those situations. We have to work beyond that. I think there is an opportunity for us.

Mr. Kagawa: Thank you very much, Steven. My time is up.

Chair Hooser:
Rapozo.

Thank you, Councilmember. Councilmember

Mr. Rapozo: I guess I do not have any real questions. I kind of liked what was just said. But I definitely agree that that line has been drawn in the sand and I am not sure if there is even an opportunity. I hope there is. I heard Mr. Hooser ask a series of questions it is relates to buffer zones and disclosure, but I did not hear any positive response from the companies. I guess my question to each of you is, how far can you all go to accommodate the requests of the community, the disclosure? I tend to agree with the disclosure and buffer zones. You heard my assessment earlier, that you cannot have a one size fits all. I would believe the same thing with disclosure because each situation is different, each crop is different, the season is different and I think it definitely warrants more investigation or at least analysis. But just start with disclosure. What are the companies willing to disclose? I think you have all heard the concerns of the community. Everyone is very clear what the community wants and yet, people are saying pass the Bill, the other people are saying do not pass the Bill. What are you all willing to – how far anyway, to accommodate the community concerns that you heard loud and clear? I am talking about the community that is directly impacted by the operations? There is a huge segment of the testimony that we received which is coming from the anti-GMO community. Worldwide, I have gotten E-mails from throughout the world. I am not talking about that. I am talking about the people that live next to these farms, the local families that are subject to pesticide contact. How far can you all go to accommodate their needs in the GMO issue is another issue in my opinion. This Bill is being used by the anti-GMO movement to move their agenda. I am not interested in that right now. That is another discussion. This discussion is the people that are living next to the fields, the schools, the hospitals that are next to the fields, how can we successfully, positively meet their needs or their desires? We can start with you.

Ms. Goldstein: Councilmember Rapozo, we share the interests in having a better understanding. We understand the types of questions that are raised and we do feel that there is a place for much more discussion, the idea of a community oriented discussion where much of the information that may already be out there is not well-known. We are aware of studies that have been done, that need fuller understanding of those results. People may not understand the extent to which the regulators already conduct inspections, let us say for our Genetically Engineered crops. Having a community-based type discussion and then also looking at there is a State Pesticide Advisory Board, they may have a role. The State Department of Agriculture has expertise and in place already, a reporting system and we would certainly support and want to see more community-based discussion so that the information that is already available and out there is brought to light. I am talking about studies that have been done where there are results and data and then to really see where there are still some gaps and some questions because I think taking a look into this may be reassuring for the type of data and information that already exists that can be evaluated. We heard about the tumor registry for instance, taking a look at that to evaluate medical data that exists. We would certainly support the discussions that then lead to these types of what you are talking about and what the Bill addresses for community questions.

Mr. Rapozo:

Thank you.

Mr. Lupkes: I would say that the focus on the community and the community relations, how do we build trust between the companies and the community? You do not do that by submitting information to a website and looking at the website. It is sitting down in a room together and talking about your

concerns. This is not the first time. There are other models where businesses have had to sit with the community and try to work through issues. I think that we would have much better dialogue sitting around a table with the community then going through this type of scenario. The problem is how do we do that? How do we get people to come to a meeting? If I was to call a meeting, who would come and why would they come? There would be some assumption it was a one sided meeting. That is an area where potentially the Council could play a role as to help create that safe atmosphere to where people could sit together, safely explain what their concerns are, safely give what we think is good information, and work through it. There is probably some middle ground in there. Again, I think the most important are the people in the community. Those are the people we need to build trust with. I do not know exactly how that mechanism is to get us in the same room and talk, but I do not think turning pesticide records into State or anybody else and putting it on a website builds that trust.

Mr. Phillipson: Yes, there needs to be a vehicle to get there and right now we do not have that vehicle. I do think what was been brought up before and in fact, there was actually some informal discussions with some Councilmembers of putting kind of an Advisory Panel on each side to talk these things through and what are the issues and how to deal with them. I think now that we are at this point where Bill No. 2491 is so far been developed, can you live with this, what can you accept on that, I think it needs to go back to a discussion. We have had different experts in here at different times. Today, we had the Department of Health, before we had the Department of Agriculture. We know that from the Chair, that the EPA and the FDA are interested and would like to help and weigh in on this as well. I think that we are at a point that we have got all of this information floating around and to put it into one format, one route to move the process forward, I think that everybody at this table here would be very willing to be part participants in that matter and resolve this. This is not fun for you folks, it is not fun for us, everybody is tired of the energy spent on it, and I know that we all want resolution. We do not want this to drag on and on, but I think that we need to get that vehicle in place to move forward with the scientific advisory panel, a community panel. Councilmember Hooser knows a lot of good environmentalists. Let us put the *hui* together and get going.

Mr. Horton: I think for us, we are kind of the new kid on the block in terms of seed industry on Kaua'i. I look just in our agency how we have worked with the community and we farm the old Olokele Farm. When we came into that farm, all of the sugar cane was gone. So, as you can imagine we got a lot of dust complaints and I feel really proud about the way we handled those. When someone would call, we would go straight to the house and knock on the door and we would apologize for it and say we are sorry and that we are working within our best means to fix that situation. Knock on wood, we have not had a complaint in almost three (3) years now. I think it is because we are that connected with the community and if it is a community forum, where we had actual residents, Hanapēpē Heights was mainly with Kona Winds, that is who were calling and we would go up there and lead the conversation with we are sorry and what can we help do to mitigate it? Here is our plan. If we can keep it at our neighbor level and maybe with help of Council to really get these conversations going. We can bend over backwards in a lot of situations because we want to be good neighbors, and the honest truth of it is that within Dow, the majority of our workforce lives there in those neighborhood. When they walk through the community, the want to walk through the community with their head held high knowing that they have that good relationship. I think at the community level, there are a lot of things that we can do voluntarily to address those concerns as they come in.

Mr. Katayama: Councilmember Rapozo, at the very beginning of the process we said we were willing to cooperate, disclosure, reasonable accommodations, and interested parties, we are willing to do that. I guess of this group, we are the old guys on the block because we have there the longest and again, we are legacy farmers.

Mr. Rapozo: Time is up. Thank you.

Chair Hooser: Thank you very much. I am not sure if we – can we do a tape change now? Yes, why do we not do it now rather than interrupt Councilmember Nakamura during her questions. How long will that take? We will take a five (5) minute tape change. If everybody can just kind of sit tight, not go too far anyway.

There being no objections, the Committee recessed at 2:19 p.m.

There being no objections, the Committee reconvened at 2:25 p.m., and proceeded as follows:

Ms. Nakamura: I would like to call up Dr. Nalini Sathiakumar. Hi.

DR. NALINI SATHIAKUMRA: Good afternoon.

Ms. Nakamura: Thank you for being here.

Dr. Sathiakumar: Thank you.

Ms. Nakamura: I understand you are a Doctor of public health and has done a lot of work in epidemiology.

Dr. Sathiakumar: Right.

Ms. Nakamura: I had some questions about...

Dr. Sathiakumar: I am a Pediatrician as well and an Occupational and Environmental Epidemiologist.

Ms. Nakamura: Are you aware of the public health concern and environmental concerns on Kaua'i?

Dr. Sathiakumar: Yes.

Ms. Nakamura: Have you been through situations like this in other parts of the Country and the world? I wanted to ask you what do you think is the best way for this body to address some of the public health and environmental concerns?

Dr. Sathiakumar: Thank you for the question. My experience on that comes most recently from the Gulf oil spill. I was one of twelve (12) members advising the government on the next steps of the oil spill. I think that was a very important exercise because it was a panel advising these regulatory agencies as well as the government. They selected twelve (12) people from different disciplines like epidemiology, toxicology, industrial hygienists, agriculture, and ecologists, etcetera. We sat together and sort of looked at what the next steps would be and also effective ways of communicating with the public. The results of these

meetings as to, in fact, mainly to involve, for example, the current knowledge. This work group actually, what we did was gather what is the current knowledge on the chemicals that we are looking that. For that we depended on for example, advisory regulatory agency results like international agency for research on cancer, "WHO," and the EPA. We compiled those results together and then with the data already available, like for environmental samples, water samples, whatever was collected by National Oceanic Atmospheric Administration (NOAA) and other agencies and then we sort of decided what new information was required. For example, future studies, I heard you mention about future studies. So, what are the pros and cons of that and lastly, of course communicating all of this to the public. Once we had put this together, of course, we met a couple of times and we are all from different parts of the Country. Then we did open forums with the public ourselves. We had the public come where we could the answer questions and we had a bettering understanding of everything put together and that was a very useful exercise because this was a very anxious community, very afraid because recently they had gone through the hurricane and on top of that the oil spill which was a large, large volume of some chemicals spilling into the environment. We talked about (inaudible) exposures, now, they had a big area of exposure when the oil actually went into fire and people could actually see the smoke everywhere. Then we had to go into all of that. I think it was very effectively done and in end, I think we had the understanding of the public that we as scientists, are here for the well-being of the society and everybody is here for the well-being of our children, particularly vulnerable populations of the elderly, the pregnant women, the children, and so on. So, that was my experience and I think based on that what is useful is because the other thing that one Department might not know what is in the another Department. Like, what is an agriculture of the soil and results, Health Department is another. To relate all of these Departments together, I think a panel comprising of people in academics and the Health Department and calling on outside expert as needed like from the CDC and EPA who are ready to help on these occasions are very useful. I think some of those exercises will be very useful. I was also on the CDC Advisory Panel for this Gulf oil spill. So, that was again, another panel similarly. But actually, the Institute of Medicine was the one who finally came up with the recommendations and solutions and that is being carried out now.

Ms. Nakamura: We have seen a lot of studies about the dangers of pesticides. We have heard a lot of anecdotal information and concerns raised about some of the environmental and health issues on the West Side, especially. It is trying to make that linkage and understand the data.

Dr. Sathiakumar: Exactly.

Ms. Nakamura: Is there any advice you can give to us as the decision-makers about how to proceed?

Dr. Sathiakumar: Atrazine, for example, I have studied a lot. In fact, that was one of my first occupational studies because when you study workers, they have a lot of exposure and it was actually my dissertation study when I did the Doctorate Degree, and then later on, one of my doctorate students went on to study atrazine in the (inaudible) plants. I am quite familiar with that. I think one of the things to remember in these situations, you will see papers coming one on this side and one down the other side. Somebody is saying there is no effect and somebody is saying there is a lot of effect. So, some group of people will read one side, form an opinion, and the other side reads that paper and forms an opinion. You have this mixed thing. One thing as a scientist at least when you are part of agencies, for example, I have done a review myself for atrazine and that was in critical reviews of toxicology. It is a stand-alone document. You have to look at the

body of evidence because definitely when you do studies, some are going to be negative and some are going to be positive and we have to weigh the quality of the study is very important. Just like when we buy a product, the quality depends on what worth you place on that. Similarly, scientific studies that are different levels of studies starting from descriptive studies. Many of these studies, some of them could be, what we call is an ecological studies. They look at where you live and that is the exposure. What is the personal exposure? That may not actually relate to the personal exposures and so that was one of the problems. Then you have the first is the descriptive studies, then the ecological – what I am talking about, then you come to cross-sectional and case-control studies, and on the top of the line is the cohort studies, that is the follow-up studies where you take a group of people, exposed, unexposed, and follow them over time. However, those study are very expensive and they are not done as the starting point. You have to do the preliminary studies, come to some hypothesis, and then you want to test it and only then will you embark on those kind of studies. Now for example, you heard some statements being made that pesticides cause childhood cancer. Some people are for it, some people are against it and they are at both ends of the spectrum. Now if you look at the National Cancer Institute and if you look at their advisory and the fact sheet, you will see very clearly it says pesticides have not been convincingly linked to childhood cancers. This is because most of the information came from studies where there did interviews with subjects which was not substantiated by any exposure measurement in those subject, and also the validity of the studies and thirdly, the inconsistency of the results. Some of the results were positive, negative, so it is not a convincing body of knowledge and this can be found in the National Cancer Institute website. It is open link. It is publicly accessible. Also, if people have concerns, there is 1-800 number, and any person can call and speak to a consultant in the American Cancer Society. We have all of those options and I am sure people do not know about those things or the cancer registry, for example. The data that is available. When I look at the data for – I was looking at the data since I was coming to this meeting and I saw in Kaua'i for example, the childhood cancers are less than three (3) over a five (5) year period, three (3) or fewer, and that is from your cancer registry. These are things that people are probably not aware about. If they have concerns, then they need to report it.

Ms. Nakamura:

Thank you very much.

Chair Hooser:

Councilmember Yukimura, you are next.

Ms. Yukimura: I do want to ask Dr. Sathiakumar some questions, but I also want to have the seed companies back later.

Chair Hooser: everybody else.

Sure, you have ten (10) minutes like

Ms. Yukimura: Great, thank you. Dr. Sathiakumar, thank you very much. You have a very impressive resume. I am interested that you said you did your doctoral dissertation on atrazine?

Dr. Sathiakumar:

That is correct.

Ms. Yukimura: And that you did a review of atrazine in the registration process that EPA did, or did I not understand clearly?

Dr. Sathiakumar: mean? For the EPA?

No, I did not do that, not for the EPA, you

Ms. Yukimura: Yes.

Dr. Sathiakumar: This document would be used by the EPA.

Ms. Yukimura: That is what I mean.

Dr. Sathiakumar: One thing that scientists do is, you produce the research that informs regulatory agencies.

Ms. Yukimura: Right.

Dr. Sathiakumar: Regulatory agencies need that kind of research. For example, my study of atrazine that was used in the evaluation of carcinogenicity by the international agency for research on cancer. I can also cite to an example, I have done the largest cohort study in the world of rubber industry workers which actually upgraded (inaudible) from a probable carcinogenic to a definite carcinogenic. We as scientists, help to produce the science that is needed by regulatory agencies by production good-quality studies that they can base their opinions and results on. Either it may be downgraded or upgraded, depending on the science that we produce.

Ms. Yukimura: Have there been reliable studies that have shown a link between pesticides and childbirth defects?

Dr. Sathiakumar: Birth defects? In general, let us look at atrazine for example. Atrazine, developmental effects, both experimental studies do not show and developmental – it is not a teratogen. Teratogen is a chemical or a substance that caused an abnormality of the fetus that is a growing child, unborn child. But atrazine has not shown any effects both in experimental as well as human studies and there is nothing to support it as a human teratogen.

Ms. Yukimura: Is there any studies to show it to be a hormone disruptor.

Dr. Sathiakumar: At the levels that humans are exposed to, the exposure in water is three parts per billion and three parts per billion is actually a 0.1 microgram per liter that a person would have. At those levels and the no-observed effect level in animals is about two hundred fifty thousand (250,000) times higher than what a human would experience. At the levels that human experiences in reality, it is very, very unlikely that it has any reproductive effects and no studies have shown that. If you look at the mediated cancers they have not shown an increase in both cancer studies. Again, I just looked at your cancer registry as well for ovarian cancer, breast cancer, and prostate cancer, actually Kaua'i is much lower than the National cancer rates in the U.S. In fact, all cancers, all cancers in general. In fact it says very clearly that the healthy people's objective is actually achieved for Hawai'i and Kaua'i, but not for the U.S., as far as cancer rates are concerned.

Ms. Yukimura: Does the island rate however, tell us about the village rate for example?

Dr. Sathiakumar: The County rate you mean?

Ms. Yukimura: Pardon me?

Dr. Sathiakumar: The Counties?

Ms. Yukimura:
County-wide rates, right?

I think the rates you are talking about are

Dr. Sathiakumar:

Yes.

Ms. Yukimura:
the County, there might be some hyper-level of exposure?

Is there a way to determine whether within

Dr. Sathiakumar:

You are talking about a cluster?

Ms. Yukimura:
"cluster?"

I guess so. Is that the term or art, a

Dr. Sathiakumar: That is the term, yes. A "cluster" is a group of cases that occur in more than expected. If you have a concern type of cancer, when we call what we mean is a "cluster" is more than expected for that area over a period of time and in a defined geographic area. However, for the cancer to be truly a cluster, one, it has to be a rare form of cancer, second it has to be truly over the excess of a common form of cancer, and thirdly it could be a cancer that is occurring on previously unrecognized populations. For example, a hormone mediated adult cancer occurring in childhood.

Ms. Yukimura: It seems then that that definition of "cluster" is not what we want.

Dr. Sathiakumar:

Yes.

Ms. Yukimura: I think people want to know whether cancer in general is at a higher rate on the West Side.

Dr. Sathiakumar: I think what can happen, you will have very small cancers of course in a sense...

Ms. Yukimura:

The numbers are small.

Dr. Sathiakumar: The numbers are very small. You have to individually look at, for example, the record review to see whether they have first of all what type of cancer? Immediately, if it is different forms of cancer, immediately it tells you are not going to see anything because as you know, cancers are diverse disease with different etiologies and it has different causes, multiple causes, and it is a multifactorial disease. For example, in adults that smoke, lifestyle habits like lack of physical exercise and children, the cancers are for largely the causes are unknown. Really, we do not know too much about childhood cancers and the known ones are radiation.

Ms. Yukimura: I do not know that childhood cancers are a concern here. It more seems like childbirth defects and adult cancers I guess, is what I want to say. You are saying that we have too small a sample...

Dr. Sathiakumar: No, I am not saying that. We have to look into that. Anything that you suspect has to be looked into. I mean, it is not you can look at it and you can do a more simplistic way of descriptive analysis. You may not be able to do a very rigorous epidemiological study, but you could do a simplistic descriptive study and look at how things look because I think it is important when people tell you certain things, it is for us to look into that and that is why we need a panel to look into it. They can look into it and see what is needed further. Now, you

also talked about the other thing to remember is that studies are prohibitively expensive, particularly environmental epidemiological studies. The cost of sampling is so expensive. We talked about soil and water and everything, you cannot be sampling so many areas because I know how difficult it is when we do the budget for the studies. We have to make sure that every bit is really warranted and that is why we have what is known as a feasibility investigation. You do a feasibility to see what the next steps are, so what do we have at the moment and does not warrants further investigation. So, that is the type of activity we need. We cannot jump to something directly and say I am going to embark on a big-scale, long-term study. It may not be warranted.

Ms. Yukimura:

You have to walk before you run.

Dr. Sathiakumar: I think so, and as a rule generally, I think that all of us in our life, I think moderation is the rule in everything that we do, both in our personal life as well as any exposures that we may be exposed to. That is a good practice. I think living in this environment which we are exposed to ultimately a number of chemicals in different ways. In your homes, deodorants, etcetera, there are so many things.

Ms. Yukimura:
What is a ballpark figure?

How much would a feasibility study cost?

Dr. Sathiakumar: A feasibility study I think would run at least about – I would say with some sampling and everything, at least about five hundred thousand dollars (\$500,000) to one million dollars (\$1,000,000), five hundred thousand dollars (\$500,000) at least.

Ms. Yukimura: I am just aware of the time. This policy statement from the American Academy of Pediatrics has been cited. I just wondered, how we would best use that paper in terms of what we are trying to solve here.

Dr. Sathiakumar: I think I have seen the paper and the paper is a review paper. It is not an original research paper. Research paper is something that you have an idea, then you research, and you go on. I would encourage you – there are good things about the paper. It talks about good practices, about integrated best management, a little bit about making sure children are washing their hands, etcetera. But I think the toxic effects are well-mentioned. The acute toxicity and I think you rarely come across those. I have seen it in other settings like Asia and so on where people store pesticides in the home and children drink them, so accidental poisoning you see a lot of that. We do not see a whole lot of that in the United States. However, the chronic effects I think, are a bit overstated as I said. You need to look at the National Cancer Institute and what they say about childhood cancers and very clearly it said pesticides have been “suspected” is the word used by the National Cancer Institute. However, at this time, the studies do not and there is no firm conclusions as to pesticide causing concerns.

Chair Hooser: Thank you very much. We are out of time for this particular segment. I appreciate that. Thank you, Councilmember.

Ms. Yukimura:

Thank you, Doctor.

Dr. Sathiakumar:

Thank you.

Chair Hooser:
Councilmember Bynum.

Thank you, Doctor. We are onto

Mr. Bynum:

I wanted to continue with them.

Dr. Sathiakumar:

I am finished now?

Chair Hooser:

Yes. Thank you very much.

Mr. Bynum: I want to know how many of you are impacted by, use, or are in proximity to the Waimea Ditch? The ditch that goes along Na Pali from the Waimea River, the irrigation ditch, right? Which companies are in proximity to that?

Mr. Lupkes:

BASF would be in proximity.

Mr. Bynum:

We have met, so I knew that. Who else is?

Mr. Phillipson:

We would also, Syngenta, would be.

Chair Hooser:

Can you all speak louder, please.

Mr. Lupkes:

Pioneer is as well.

Ms. Goldstein:

Yes, and Pioneer.

Mr. Horton: We are not. Our water comes from the Olokele and the Ka'ula system so not the Waimea.

Mr. Bynum: Let me start with this. The Olokele system that you get water from is a legacy from the plantation era, correct?

Mr. Horton:

That is correct.

Mr. Bynum: Is it managed in such a way that that irrigation water does not get routinely discharged into the ocean?

Mr. Horton:

That is correct.

Mr. Bynum: That is what I am trying to find out about the Waimea ditch. Is it managed in such a fashion that water does not get discharged into the ocean?

Mr. Horton: I do not know. I can only speak to our system, and our does not.

Mr. Bynum: Does anyone here know the answer to that question?

Mr. Lupkes: For the Waimea one, I think it is designed to – if you get an overflow, it will go to the ocean.

Mr. Bynum:

Right. I am just meant on a routine basis.

Mr. Lupkes: Routinely, if it is managed perfectly the water would get to the last reservoir and stop.

Mr. Bynum: My understanding of irrigation systems is that they are intended to move water from one place to where it is needed for crops. But you do not want to divert more water than you need, correct? I mean that is best management practices, right?

Mr. Lupkes: That would be correct.

Mr. Bynum: Because I said, I am going to have amendments later today that I hope that you will be here to discuss with us as well and some of these are pragmatic answers. I think the intention of the Bill was to not have pesticides in a manner that they would routinely enter the ocean. That is why there are shoreline buffers. There never was an intention to buffer internal water systems that are not designed to discharge into the ocean. Now we know when the big rain comes everything discharges. That is an event. You have helped me with the answers to the best of your knowledge, right? I will ask others those same types of questions. That is it for now. Thank you

Chair Hooser: That is your ten (10) minutes.

Mr. Bynum: Oh, this is my ten (10) minute time?

Chair Hooser: This is it.

Mr. Bynum: For Dow, who I have not spoken with as much as the others, when you took over the Olokele sugar lands did you file a new Conservation Plan?

Mr. Horton: We did, but not immediately.

Mr. Bynum: Did you operate for a period of time under the old Conservation Plan?

Mr. Horton: There was not one in place though. We did operate without.

Mr. Bynum: Olokele sugar did not have a Conservation Plan?

Mr. Horton: Not that I am aware of. I know that they did not have grading and grubbing, so we did operate...

Mr. Bynum: I guess this is a question for all of you, did any of you operate on a Conservation Plan that was left over from the previous people? Olokele, I am pretty certain that the sugar companies all had Conservation Plans. I am almost certain that is a correct statement. I am looking into these Conservation Plans, but you all understand that the expectation is that there is a change of use, change of lessee, that there would be a new Conservation Plan, right? The Conservation Plan that applied to sugar does not apply because each one is specific to the particular land and the particular practices, is that correct?

Mr. Horton: That is correct.

Mr. Bynum: You all understand that? So, part of my research is looking at all agriculture purposes, whether Conservation Plans have been in place because if a Conservation Plan is not in place and the soil is disrupted, that is a violation, correct? Everyone understands that?

Mr. Horton:

Yes.

Mr. Bynum: If you operate without a Conservation Plan, approved and in place, for even one (1) day, when you till the soil, you are violating the County law, right? These things are helpful. I want to continue to meet with you and we will hopefully get into this this afternoon of how the changes that I am proposing, might impact you. Thank you.

Chair Hooser: I am going to take my ten (10) minutes now if I could. Thank you for hanging out today, gentlemen and ladies. I appreciate your thought about working together, working with the community, but I have to point out also, Mark, you mentioned the Waimea Canyon School voluntary buffer zone. I think it is important that the community know that the voluntary buffer zone only happened after multiple incidents of children and teachers getting sick and the legislature or myself and others working for four (4) months and the community testifying and pushing and pushing and pushing, and then Syngenta finally said let us do it this way. It was not an easy process. It was not let us all the work together in the community process. Pioneer, I appreciate your willingness to work together with the community. I think it is important to note there is one hundred plus (100+) citizens suing Pioneer because it has not been successful. In my opinion, to work with the community, the community needs some basic information. For me to work with you to figure out what is going on, I need to know, the community needs to know, what is going on. For the record, I will ask you again, are willing to comply with disclosing the chemicals you are using on an annual basis as in the Bill? You can answer. People have complained that they have not heard an answer because I took silence as a no. But if you could each answer the question.

Mr. Lupkes: I would say that I feel it is really important that this information has to be communicated in some context and as it is written in the Bill, I do not think it is a proper context.

Chair Hooser: Would you say no is the answer?

Mr. Lupkes: I would say that I do not think I would want to comply with the Bill as-is.

Mr. Phillipson: I do not think it is a yes or no answer at this point, Gary. I think what it is, it is more of what needs to be disclosed, the context...

Chair Hooser: With all due respect, I asked you an hour ago, if you would say how much General Use Pesticide you are using and you said "no" with your silence. Councilmember Yukimura asked you earlier, "Would you comply with providing information on the RUPs for 2012. You effectively told her "no" and so I think that it is a fair questions to ask, how do you have community conversation without the facts?

Mr. Phillipson: I think my answer was more to the fact that there is a Bill, I believe it is Bill 105, in the State legislature that is going to put out the disclosure for the RUPs and as another part of that Bill, those in charge of looking are also supposed to look at other States, their disclosure, how they do thing...

Chair Hooser: Thank you very much. I am going to move on, that Bill does not affect General Use Pesticides at all. In conversations with the industry, I am told everything that glysohate is harmless. You can put your hands

in it, you can use it every day, and there is no harm at all. That is the word I get from the industry and yet you will not tell us, you will not tell our community how much you are using on a regular basis. How do you have a conversation if you do not give us the basic information? Go ahead, sir.

Mr. Horton: I think when you look at our perspective, we did provide the RUP data and I think given the right reporting structure that Dow would probably be open. But what we would ask is since general use is such a broad class of pesticides that other General Use Pesticide users within the County would also be willing to contribute to that agreed upon format.

Chair Hooser: So, that is almost a "yes." Thank you very much. Pioneer, and I mean that in a friendly way. Do not get me wrong.

Ms. Goldstein: As we are looking at and talking about the Bill evolving and changing, we would look at other language as it is developed. We do believe that we share the concern for the community, the interest of the community, we certainly understand there is a desire to know more, and with the spirit that you have for introducing the Bill. But the answer to that is, as-is, we would want to see amendments and we would want to see it evolve.

Chair Hooser: Thank you, I take that as a "no." I will make my interpretations as we go through, as far as my personal interpretation. Mr. Katayama, yes?

Mr. Katayama: Again, let us know what information you need and we will provide it. I think you need to have proper context.

Chair Hooser: With all due respect, I have asked for this information on several occasions in writing and the question is simple. What is the annual use of the General Use Pesticides that your company is using? I have get to get the answer, and that is to a big degree why we are here today. How do we have a community conversation without the information that the community can then base its decision on? That is the question.

Mr. Katayama: Again, out of context, absolute numbers mean very little.

Chair Hooser: I am talking about my context. I am the Chair of the Committee, the Council is entertaining a Bill.

Mr. Katayama: I thought this with was a community issue.

Chair Hooser: This is an issue that is before the Council. It is a Bill, it is there, and it is very clear. I am asking and have asked repeatedly and I have been unable to get the information. Thank you for sharing what you have shared with me. If I can move on. In terms of Genetically Modified Organisms that you are growing in our community, in order to have the conversation, the Bill says disclosure of that and the general description of the Genetically Modified Organisms that you are growing in the community. Are you willing to disclose that?

Ms. Goldstein: There already is a list that is kept.

Chair Hooser: No, but the Bill calls for providing a list. Would you provide a list according to the Ordinance?

Ms. Goldstein: Again, we would look at generally what we are doing and describe what we are doing, but we do not provide information on the very specifics of an individual gene or an individual piece of information.

Chair Hooser: If you look at the Bill, the Bill asks for a certain type of disclosure. It does not ask for specific trade secret or anything. It is a general description. Would any of you be willing to disclose that? Again, in the spirit of having a community conversation, we need to know what activities are happening, otherwise we are having a conversation in the dark.

Mr. Phillipson: The Bill does ask for location and we have had eco-terrorism happen on our farm actually.

Chair Hooser: The Bill asks for TMK, or *ahupua'a*. It does not ask for a specific location of a specific one acre or quarter acre plot. My understanding that the TMKs are a thousand acres. They are fairly large portions, usually. I am done. Thank you very much. I am done with my portion of the questions. That concludes this segment. Thank you all for coming. I hate to end on an abrupt note.

Ms. Yukimura: Chair?

Chair Hooser: Yes?

Ms. Yukimura: I did say before I questioned Dr. Sathiakumar, that I wanted to have another round with this.

Chair Hooser: That was ten (10) minutes, everybody member had ten (10) minutes.

Ms. Yukimura: You said I could.

Chair Hooser: I said you could have your ten (10) minutes.

Ms. Yukimura: Otherwise I would not have...

Chair Hooser: I said you could have your ten (10) minutes like everybody else. It is up to the majority.

Mr. Rapozo: I think we need to move on, Mr. Chair. I heard you say she could have her ten (10) minutes. I heard that. Let us move on. We have a lot of people here that want to testify. This is for them, an opportunity for the public to come and testify. We can have our discussions afterwards. Even the ten (10) minutes and ten (10) minutes, and ten (10) minutes, I think it is important, but let us follow the rules you set early on and not deviate. That is what keeps these meetings going on forever.

Chair Hooser: Thank you. Other members?

Mr. Kagawa: I agree.

Ms. Yukimura: Then I challenge the decision of the Chair.

Chair Hooser: Do we have somebody, Parliamentary Procedure here?

Mr. Rapozo: She can make the motion to challenge, the question will be made, and we will take a vote.

Chair Hooser: Do need a second?

Ms. Yukimura: No, it is a point of order.

Chair Hooser: All in support of the challenge say aye? No support? Challenge fails. Rules are still suspended. Let us take a five (5) minute recess, if we could.

Mr. Rapozo: Can we do the ten (10), why do we not just do the ten (10)?

Chair Hooser: Are we ready for the ten (10)? Can we do the ten (10)? We will do the ten (10) minute recess.

There being no objections, the Committee recessed at 3:01 p.m.

There being no objections, the Committee reconvened at 3:11 p.m., and proceeded as follows:

Chair Hooser: We are going to start back up again and move to the next phase of the meeting. My original plan with concurrence from the Committee, the original plan was to have a discussion at this point, either a brief discussion or as long as the members would like on possible amendments, ideas for amendments, and if members wanted to propose and move on amendments and vote on them after discussion, that is perfectly okay. Some members might want to defer to a future meeting because of the complexity or because the amendments are not ready. But I thought this warranted at least somewhat of a discussion to get the process moving in that direction. I imagine there will be some housekeeping relatively minor amendments, as well as some more significant. My idea was to have that discussion and if we vote on them, we vote on them, and then move to public testimony after that so that we can give the community an opportunity to speak. I have some relatively minor proposals. I will just go ahead and start and then we can go around the room if anybody who wants to talk can speak. For example, in the findings, the original amount the Restricted Use Pesticide was quoted at 3.5 tons, that number has been quite debated over the last few weeks, eighteen (18) tons, and then the Department of Agriculture said eight (8) ton and other people have said different pounds. But this amendment, and as you all know, the Chair cannot initiate amendments. So, if anybody wants to do this, they are welcome to do so. This amendment takes the number directly from the Department of Agriculture reports. Staff has verified this for me, instead of converting it into tons we use what they reported, which is approximately five thousand four hundred seventy-seven point two (5,477.2) pounds and five thousand eight hundred eighty-four point five (5,884.5) gallons. I will go ahead and circulate that. I do not expect a motion or whatever, but I think it is good just so everybody has it. If people feel like they want to vote on it today, they can. I have another one. The experimental pesticide provision, the Department of Agriculture pointed out that the way the Ordinance was written was that the prohibition on open-air testing for experimental pesticides also applied to small uses out in the wilderness. Let us say, if there is an invasive species for an emergency. This amendment clarifies that the prohibition on open air testing of experimental pesticides is only for the entities that meet the threshold defined in the Bill. It is not just for every little use, only for the major uses. I have some other ideas, but I will go ahead and stop there. If any other members, we will go around the room. Yes, Councilmember Kagawa?

Mr. Kagawa:
minutes?

Thank you, Chair. What do we have, five (5)

Chair Hooser:

Sure, five (5) minutes.

Mr. Kagawa: Thank you. First of all, Councilmember Hooser, I want to thank you for introducing the Bill. It has taken on the toughest of topics. I cannot envision a political body going through a decision as tough as this one because it basically divides our community. It has both sides wanting for or against for the most part. Those are the toughest kinds of legislations to handle because as a politician, it is typically correct for us to try and please both sides and come out smiling. On this issue, it is really tough to see that end in sight. But I am a life-long Democrat, life-long resident of the West Side, and I really believe that to be a true Democrat, you have to believe that you belong to the party because you feel like you can work together with your fellow Democrats. We are the strong party in not only in Hawai'i, but in the United States of America and work together and solve tough issues that face us. I hold that hope that we can work with our State people, Governor Abercrombie, his Chief of Staff. We have met face-to-face with him, myself, and Councilmember Rapozo in the Capitol. It is an election year also. He is given us assurance that he is concerned about the Department of Agriculture's and the Department of Health's lack of oversight regarding pesticide use and how it affects our community members.

I have told him that I mentioned one individual that was running his West Side campaign in the last election that has approached me and has said that they live right next to a seed corn field in Hanapēpē Heights and he believes that he and his mother are experiencing some breathing disorders in the recent months. They do not want the seed companies to shut down, but they want to know what they are using, and what is the effect on them? I just this guy who is running the Governor's campaign on West Side that comes to us with no jurisdiction in that area to answer his problem. That is probably why Councilmember Hooser is tired of working with the State because maybe the State has not performed over the years. For me to commit our County to take over something that is already being done by the State, by the Federal level and to think that we could establish this Department by passing this Bill and how the Bill will be in force and the outcomes will be what proponents of the passage of Bill want, is to me, not being realistic. I do not think our County has the capability of forming that Department and being successful in a relatively short period of time. I think for the County to start off and take over a lot of what the State is not doing would take us at least five (5) years to be successful. I think it is going to be a learning curve for the first two (2) or three (3) years at least. I think another more two (2) years of working out the kinks and getting the necessary people to know what they need to do before we see any results. However, if the State steps up their game and I am not meaning one worker in each Department, I am meaning several more Department of Health workers, several more Department of Agriculture Inspectors, and workers in order to really, once and for all determine on Kaua'i, what is the effect of experimental pesticide use, experimental corn on Kaua'i on the environment, on the health of our people? I think that can be achieved by the State. They have the Departments to run it. But they certainly need to step up as they have never stepped up for many years. I want to just thank members. It is been a tough issue, but we have really all put in a lot of time in this. Thank you.

Chair Hooser: Thank you. Councilmember, I was remiss that staff asked me to announce they are handing out sign-up sheets for testimony. They are going to be coming around inside and outside for the public who wants to sign up for testimony. Councilmember Rapozo.

Mr. Rapozo: Mr. Chair, I have prepared a PowerPoint and it really just covers Chapter 149A. I do not know if this is an opportunity or is this something that you would allow me to do now?

Chair Hooser: My intent was to talk about possible amendments and then have public testimony. But it is up to the members. I do not know how long it was.

Mr. Rapozo: I do not know, I never timed it. I can wait for discussion. I think it is important, I think, that the public understands or at least knows what Chapter 149 is. In the discussions that I have had with numerous people, including Attorneys that have been advocates of the Bill that have not read or is not familiar with Chapter 149, which I think includes a lot of mechanisms that can accomplish what we are trying to accomplish as it is written today. I do not know if this is the appropriate time. I will leave it up to your judgment, but I do want to at some point be able to do that PowerPoint.

Chair Hooser: Thank you, I appreciate your request, Councilmember. I think given the issue of fairness and time and everything, I just need to know how much time it would take, five (5) minutes or do it later or pass for now?

Mr. Rapozo: I would definitely respect the time requirements.

Chair Hooser: This is just for thought. It is clear this will be deferred. There will not be any final decision-making today. I think the date that we are looking at would be next week Tuesday. We could pick a time and all members could have five (5) minutes, seven (7) minutes, or ten (10) minutes for remarks or PowerPoint. Does that work?

Mr. Rapozo: That is fine with me. Will we have time today, at a later time?

Chair Hooser: Sure, it depends on how enthusiastic the public is. But yes. Councilmember Nakamura.

Ms. Nakamura: I just think we have had a lot of public testimony, this is our Committee deliberation period, and whatever Councilmembers think is important to deliberate, I think this is important to do it. I would be open to listening to Mr. Rapozo's presentation.

Chair Hooser: That is all I needed, was another prompt. Yes, Councilmember Bynum.

Mr. Bynum: I am not a Committee Member. I want all Councilmembers to have an opportunity to present things that are important. I would request that we finish the amendment process and then do it because I know I want to talk about a specific amendment. I want to introduce it and circulate it that is Committee work.

Chair Hooser: Other discussion? Yes, Councilmember?

Ms. Yukimura: I do not mind input from Committee Members. I think it is important to do that. I want to say I have not finished my

fact-finding and questioning the seed companies was part of it. I still want to do that.

Chair Hooser: Yes?

Mr. Rapozo: There is a lot of things that I want to do,
Mr. Chair.

Chair Hooser: Right.

Mr. Rapozo: But I am respectful of your direction.

Chair Hooser: I appreciate that.

Mr. Rapozo: Let us move in that direction and I am asking for your courtesy. I would love to speak to a lot of people on this matter.

Chair Hooser: As a Committee Member, why do you not proceed with your PowerPoint presentation?

Mr. Rapozo: Thank you. I am going to go through this real quick. It is not rocket science, Mr. Hooser. It is not. I am just baffled that it is very hard to have an intelligent relating to this Bill with people that have not and do not understand what the State already provides. I think that it is important as we move forward. I have got to tell you, that what I heard today from the Department of Health was not as disturbing as the Department of Agriculture. But it was disturbing because the fact we do not have resources is not an excuse for not taking care of public health and safety. These agencies are tasked with that and it seems like it is a convenient excuse that we do not have money.

Anyway, Chapter 149A, and it is the State law. How does this thing work? Am I supposed to hit something? Oh, I have to turn it on, and how do you do that? The button that says "on?" Anyway, Chapter 149A is the existing law that governs pesticides. I have this broken down. This is right out of the law. It starts off with the delegation of duties which says, "All authority vested in the Board or Chairperson, which is the Board of Agriculture, by virtue of this Chapter may, with like force and effect, be exercised by those employees of the Department as the Board or Chairperson may from time to time designate for that purpose." This is important and I will explain later.

It is further broken down into two (2) parts. One is the licensing and sale, which I will go through this quickly because this is the State's function. Obviously, they will determine whether or not the pesticides qualify for licensing here in State of Hawai'i. They also talk about – and they determine that if the proposed use would result in unreasonable adverse effects on the environment, that they would not license that product. It also authorizes them or compels them to protect the health and environment, the Department may after hearing cancel license of a pesticide. This is not the pesticide user. This is the pesticide itself. If there is a mounting evidence that a specific pesticide is bad, the State has right to take away the license so that cannot be used. Again, this is in the licensing part of the law and not use. It goes on to talk about the Department, if they determine that the actions is necessary to present imminent hazard during the time required, blah, blah, blah, they can cancel the license of a specific pesticide as granted that due process is given. But nonetheless, they have that right today.

Determination of rules and uniformity. This is what I keep talking about, is that the Department of Agriculture has the authority and the right to adopt rules to establish a system of control over the distribution and use of certain pesticides and devices purchased by the consuming public. That is what the task of the Department of Agriculture is. It is existing. Yes, just for your information, these are the existing rules and I do not think a few more conditions is not going to make it any thicker. It is definitely a process we need to explore. Again, more of the determinations that they are tasked with to make sure that the licensing process, the fees, and they are required to establish the processes for all of those requirements. I apologize for being quick, but this is where it is critical.

The Board after public hearing shall make and adopt appropriate rules for carrying out this Chapter, including rules providing for the collection and examination of samples of pesticides or devices. It is in the law today. We just need to get them to do their job. The Board, after public hearing, shall adopt rules applicable to and in conformity with the primary standards established by FIFRA as well as the Chapter. The Department of Agriculture is tasked with formulating the rules to make sure these things are carried out.

Of course, enforcement. They have the authority to go out and enforce this Chapter. But let me see where that is? The Board shall have the authority to adopt rules consistent with FIFRA, and implement State programs for registration of pesticide for special local needs and issuance of experimental use permit. The State again, through the Department of Agriculture, has the authority today to create special rules for special local needs which I believe Kaua'i would qualify. This is where I think we need to pay attention. Remember, this is in Part 2, which is the licensing of the pesticide itself, not the users. The Department may cooperate or enter into agreements with any other agency of the State or any agency of the Federal government for the purpose of carrying out this Chapter and securing uniformity of rules. The law says, "Hey, Department of Agriculture you can work with anybody else in the State, Health Department, whoever, or any agency in the Federal government, wherever EPA, FDA, whoever, for the purpose of carrying out the Chapter as it relates to the licensing of specific pesticides."

This is going to play an important role as we get to the next part, which is the use which I think, this is where the attention needs to be spent. Same thing. The rules. The Department shall have the authority to carry out and effectuate the purpose of this Chapter by rules, including but not limited to – and this is where I think we need to focus on number two and number three. Establish limitations and conditions for the application of pesticides by aircrafts, power rigs, mist blowers, and other equipment; and to establish as necessary, specific standards and guidelines which specify those conditions which constitute unreasonable adverse effects on environment. My point is, everything that this Bill is trying to reach is already in existence in the State law by some amendments to the Administrative Rules. The violations can be enforced. This is why I asked the Health Department person today, was he ever consulted by the Department of Agriculture to revoke any certificate or license? He said, "Not to his knowledge," but yet the certificate may be suspended or revoked by the Department after a hearing for violation of any condition of the certificate or of any law or rule pertaining to the use of any Restricted Use Pesticides. The Department of Agriculture has the authority as stated in this law and it is there for us to utilize this. This where I think I interpret the State law as letting the public know or letting the governments know who has the right to carry out the Chapter? Remember in the first corporation section cooperation section as it related to the licensing of pesticides, it was limited to the Federal government and the State government. In this one, for pesticide use, it says, "The Department is authorized and empowered to cooperate with [and inter

into agreements with any agency of the State, the Federal government, or any other agency." The State made a conscious decision when they passed this law, in the enforcement of use, not licensing, but use, that the State Legislature gave the State Department of Agriculture the opportunity to work with the Counties. That is what I am trying to say. I am not trying to punt this off to the State, but it is clear for the pesticide use section of Chapter 149A, they have the direct authority to work with the County for the purpose of carrying out this Chapter. The University of Hawai'i cooperative extension service and other educational entities shall provide other programs blah, blah, blah. There is a part of this law that says, "Any fines collected shall be used for education." My point here is that in Chapter 149A-35, as it relates to pesticide use and the enforcement of this law, we have the right working with the cooperative agreement with the State to enforce the Chapter. It is there, we do not need to recreate the wheel is what I am trying to say. But this Bill tries to recreate the wheel.

The Department or any authorized representative, again, this would be the County in this section, under pesticide use, or employee of the Department MAY enter upon any public or private property according to law, at any reasonable time to examine and inspect application methods and equipment, to examine and collect samples of plants, soil, and other materials, and to perform any other duty for the purpose of carrying out and effectuating the purposes of the Chapter. What more does this County need? That is what we are asking for. We want this authority. We do now have it, unless we have a cooperative working agreement with the State. Now, the rest of it is just the warning notices, the violations, and nothing here except one of the things I heard from that the Department of Agriculture that I was kind of disturbed about, was the fact that they negotiate the civil penalties. But the fact is that there are criminal penalties as well and that this County, with a working agreement with the State of Hawai'i Department of Agriculture, could in fact enforce this and get prosecuted locally through our local Prosecutor.

The bottom line is that there are serious ramifications for any violation of this Chapter. Then of course, the Department of Agriculture Advisory Committee, I have heard this tossed around several times today. But the last sentence, "The Committee shall advise and assist the Department in developing or revising laws and rules to carry out and effectuate the purposes of this Chapter and advising the Department in pesticide problems." I heard that today. I think some of the seed companies were saying that all of these issues should be brought up to the Advisory Committee. I agree, that is where it belongs. Whether or not we agree or disagree or we think the State is doing their job or not, the law, the structure, and the foundation is in place and this is the foundation that I believe we need to follow. This is the shortest direction, the shortest – what word am I trying to say? The shortest path to the results that we are all trying to get. Rather than trying to recreate a Bill, pass a law that is going to warrant or incite lawsuits, it is here in the State law today. If the State cannot do their job, then let us prosecute the State. Yes. Let us prosecute those people that are not doing their jobs. Have we tried? Have we met with the Department of Agriculture or Health? Yes, we brought them up here and it is pretty sorry the responses we have gotten. Have we met with the Governor? I have and Councilmembers Kagawa said, "We got reassuring commitments from him verbally." I asked him if I could get some written commitment by today or by Friday. Absolutely none since then. I am not very happy as you can tell. Met with the State Representatives. Have we met with State Advisory Committee? No, we have not. We have not. We have not. This is what we need to do. We need to work with the affected communities to determine what changes are needed, work with the Advisory Committee to support proposals to the Department of Agriculture for amendments, assist with the inspections/enforcement of State law, either through cooperative working

agreements or funding assistance to the States, and we need to commit to results in one hundred eighty (180) days. We cannot let the people hang and hang and hang and if in one hundred eighty (180) days we cannot get it done and the State is not interested, the let us prosecute or sue the State. What is more important, being icons, as I have heard so many times, this is your opportunity to be an icon, Mel. You can be a hero. I am not interested in that. I am interesting in getting results, making sure that areas around those fields are safe. The foundation and the structure is in place, like I said, under Chapter 149A and if you have not read it, I suggest you read it. Thank you.

Chair Hooser: Thank you. Good timing that was right on ten (10) minutes. Thank you for sharing that information with us. I appreciate it.

Mr. Rapozo: Thank you, my friend.

Chair Hooser: Councilmember Nakamura.

Ms. Nakamura: I would like to build on Mel's comment and his rousing presentation. I wanted to talk about how we get the State to look at changes to their rules and changes to legislation. I think for me and from what I have heard, is that we need to have some good data to work with. What I wanted to present to you is a summary here. I wanted to just focus on one (1) portion of the Bill that talks about doing an EIS and triggering Chapter 343. We have copies for the public, as well as for Councilmembers. Maybe we can put it on the screen for now so we can get the discussion going. What this is a comparison of Chapter 343 versus doing a joint fact-finding study. There are concerns about the legality of Chapter 343 and whether there is a trigger for this. Can we put it on the screen, Peter? Under both scenarios, we would be hiring a consultant, an independent consultant to do the study, whether it is an EIS or a joint fact-finding study. But with the joint fact-finding study, the consultant would also be an independent facilitator. Chapter 343 is a pretty regulated document that tells you when you interact with the community. Under the second row there, the dialogue begins with the scoping meeting and then you would have community meetings, pretty formal meetings where you present and then get community feedback. Under joint fact-finding study, we would identify diverse stakeholders in the community representing the scientific/medical community perspectives and have multiple meetings over a period of time. The scope of the EIS, Chapter 343, is a very broad coverage of impacts including economic, archaeological, cultural, social, and fiscal impacts. The joint fact-finding would really focus on priority health and environmental concerns that have been identified by the study group participants. The purpose of an EIS is a disclosure document that identifies potential impacts and then ways to mitigate those impacts, it is one point in time. Then the joint fact-finding study would be more action-oriented, outlining next steps to further understand the issues and increase communications and knowledge among diverse individuals. This is also about building relationships and building trust among people who may not necessarily interact with each other over time.

The cost of an EIS, this is an estimate based on the Mauna Kea Observatory EIS, which was about two million dollars (\$2,000,000) and you pretty much need that upfront to secure a prime consultant and numerous sub consultants who do different portions of the study. A joint fact-finding study, we would see approximately one hundred thousand dollars (\$100,000) upfront, but there would be additional costs. The upfront costs would just be to outline the scope and the methodology of the study and then you would need funds then to carry out that research. The duration I think, might be pretty comparable. It would be split up. For the EIS it could be two (2) years. The joint fact-finding study, I think there

would be two (2) phases. The first phase might be – I would probably amend that to eight (8) to twelve (12) months and then the second phase, which is the research phase could be over a year. Because of my concerns about using Chapter 343 as the guide, I wanted to propose this joint fact-finding study and maybe we can talk more about it. But we do have an outline that we will distribute, that provides a concept for this joint fact-finding study approach. That was ten (10) minutes?

Chair Hooser:

Five (5). You can continue.

Ms. Nakamura: I have some questions. The next handout is a draft of the GMO public health and environmental study joint fact finding process. Basically, it outlines a suggested approach that describes how to involve a diverse group within our community to outline some of the major environmental and health concerns and then come up with some recommendations. Maybe Councilmember Yukimura, because we worked on this together, would want to spend some of her time discussing this further. Why do I not walk through some of the key steps along the way which would be to form a stakeholder group of knowledgeable respected scientific, medical, environmental, and community stakeholders who are representative of the community and are willing to commit for the project, to undertake sustained and science centered deliberation, to identify the highest priority public health and environmental questions, to assemble reliable inventory of existing studies available to address the identified public health care and environmental priority questions, to develop recommendations to the priorities and preferred methodologies for recommend scientific and monitoring studies, estimates costs and timelines or recommend scientific and motorizing studies, identify sources of funding, and present draft and final studies with recommendations to the community, to the Administration, and to the Council. This is a draft and a work in progress. The thinking here is that this would be proposed, not as a portion of this Bill, but as a separate resolution in case there are amendments to the Bill and the Bill is challenged, then this can move forward and there is something that actually can get done in the meantime.

Chair Hooser:
Yukimura.

Thank you very much. Councilmember

Ms. Yukimura: I do not know if it was clear, but this is a joint proposal from Councilmember Nakamura and myself. We think it will be a more focused study than an EIS and talking about getting action or results, that we will be able to get data that will be meaningful to action efforts that would follow when we get better data on which to act, actually. It is a bipartisan effort. It is a community based effort. It sets up the decisions about procedures and threshold levels before any study is done. They will hopefully be buy-in from everyone and hopefully will just give us much better information on which to make good decisions.

Chair Hooser:
comments on this?

Councilmember Bynum, did you have

Mr. Bynum:

Questions, if I may.

Chair Hooser:

Sure.

Mr. Bynum: First of all, I want to say that I am thrilled that Councilmembers are working on issues to address these concerns in the community and I welcome this discussion. I would like using Chapter 343 for these reasons. I want to share a couple of concerns that I would have and allow you to

respond. I like using Chapter 343 because it is defined throughout the Country. People understand how to read and environmental document, it uses a common language, a common set of expectations versus creating something that is Kaua'i specific, so I like that structure. I do not think Chapter 343 is clearly something that gets triggered under State law, but I do not think there is anything that precludes us from using that template should we choose to use it and because it has common language and understandability is my main reason for liking that as a template. The other one is, it requires that you look at environmental justice issues, which I think are important in this circumstance. It requires that you look at economic impacts and that you explore alternatives, do nothing alternative and do something different alternative. I like the structure, I understand the structure, and I think other lawmakers and regulatory people throughout the Country understand this structure. I have been reluctant to create something in our own image that will not address things like environmental justice and economic impacts. Those are my concerns. But I am totally open and then there will be other discussions about how this is sequenced and that kind of thing. I concur also, with the cost estimates here. I think reasonable ballpark figures to do any study properly will cost a minimum, I think of two million dollars (\$2,000,000). We are spending eight million dollars (\$8,000,000) with a consultant for the landfill.

Ms. Yukimura: One million eight hundred thousand dollars (\$1,800,000).

Mr. Bynum: Oh, sorry. One million eight hundred thousand dollars (\$1,800,000). I just wanted to make those comments.

Chair Hooser: Do either of co-introducers of this concept want to respond briefly?

Ms. Nakamura: Yes. My concern is that Chapter 343 and the EIS process is very consultant driven and it does not foster community dialogue and I think that is what this community needs, is dialogue, exchange around the table with interested parties scientific voices, medical voices, community voices actually having that dialogue and I think the public hearing process is the worst process when you talk about community participation and engagement. It is really these type of consensus-building, collaborative processes that to me, can create lasting change. I do not believe Chapter 343 is the vehicle to do that.

Mr. Bynum: I just have one follow-up question to that.

Chair Hooser: Sure.

Mr. Bynum: But I believe Chapter 343 puts a minimum framework down. It does not preclude us from being more engaged and more dialogue. But this is a great discussion.

Ms. Nakamura: And I think the...excuse me. I think that the scope could be expanded of the joint fact-finding study if economic impacts is an issue or environmental justice is an issue, that could be raised at the table.

Chair Hooser: Thank you. Councilmember Yukimura.

Ms. Yukimura: The EIS process needs a lot of reform in my mind. It is just a compilation of potential impacts and it reminds me of a term paper you do the night before it is due. Also, to my mind, a consultant's retirement plan which means there is not a real focus. I think if we are going to use our money

wisely, we have to focus it on the issues that are of the priority community concerns, whether it is economic, environmental, or public health. I think this would be and we were proposing it as a superior process to the EIS process.

Chair Hooser: Thank you. I have some comments, if I could. I am going to pass this out also. All of these documents are public documents and are available to the public. This is something – knowing that the EIS was a point of discussion and what I have done, this is just for discussion and to share. I really appreciate Councilmember Nakamura and Councilmember Yukimura working on this, realizing that to make any study successful, it has to have a good scope of work. It has to be really focused I think that is what we are really talking about is how to focus and make sure we have a good study whether you call it an EIS or not. On this proposed amendment, I happened to change the name because I thought it would be important to people, to “Environmental and Health Impact Study.” It is just semantical and it establishes an advisory committee of the council. It is in an in tandem to a certain extent what is being discussed. I just wanted to add this to the discussion that maybe Councilmembers can take away and look at and pull out things might be pertinent or valuable. The things that particularly in here that I like is that we have a time frame, it has to be completed in x number of days, the scope of work section which would be your first phase that has been presented. Here it says one hundred twenty (120) days but I think it is important to have some kind of firm timelines and then that process would recommend the procurement for the ultimate study, similar to I think what you are proposing. It also says that Chapter 343, the provisions and guidelines shall be used as a template as this Committee deems appropriate. I think it is a valuable document to look at. There are certain things like the definition for significant effects. It is very comprehensive and used throughout the industry. I see Chapter 343 as a template that this advisory group could take the best from and work on. Probably the most important aspect of my proposed amendment, is that it is part of Bill No. 2491, that I am most concerned that any proposal for any study or any process I want to make sure it happens. I think the community wants to make sure it happens. My proposal, whatever study would move forward, would be an amendment and part of Bill No. 2491 or certainly some strong linkage to make sure not have been presented if I personally did not believe that the health and environment of our community was being harmed. Whether you look for scientific evidence or not, I have enough evidence for myself and that is why the Bill is on the table. If that is true and if I truly believe that and many in our community truly believe that, I believe that we need to have the provisions of disclosures, the buffer zones, and moratorium provisions to protect the community while this process is ongoing. Then if the process proves there is no harm or the harm is minimal, or directs us to the harm, then we could then act accordingly. Those would be my concerns. I just wanted to share this with you, so you could take out what is good. Also, if I could add one more thing. This proposal proposes that at the end of day, we are not the Administration. The Administration signs the document, but this says that the Council does a final review of the final document prior to the Administration signing it. We would have more influence, more control over whether the document is sufficient or not. Thank you. Did you want to respond?

Ms. Nakamura: Yes. If working on this health impact study is so important and knowing that every Attorney representing the seed corn companies has legal issues around the Bill if it passes, anywhere in close to the format it is been introduced, why would you want to prolong the study if there are any litigation involved? Why would you not want to move with an environmental and health study, regardless of what happens with this?

Chair Hooser: The threat of lawsuit by the industry, I do not believe is something that should keep us from doing what we believe is right, number one. Number two, the Bill is written and there is a severability clause. If it did go to court, I cannot imagine that the Judge prohibiting us from doing a study. They might prohibit a moratorium, they might prohibit other things if they found that the Bill was inappropriate, but these things move forward or have the capacity to move forward independently. I am not opposed...let me fully clarify. There could be a separate document moving a study forward. I just want to make sure it is done. There could be a linkage in Bill No. 2491 toward that end. I want to legally protect our right to do the study and make sure it moves forward as well. We share that goal and I am willing to work on the language with you and others to make that happen.

Ms. Nakamura: I would like to have the County Attorney clarify that point.

Chair Hooser: Would you like to call the County Attorney up now?

Ms. Nakamura: Sure.

Chair Hooser: Less enthusiastic with the shrug of the shoulders. I believe you heard the discussion. If there was a component in the Bill that focused only on a study, not an EIS, but a study as you have heard described, what are your thoughts?

There being no objections, the rules were suspended.

MAUNA KEA TRASK, Deputy County Attorney: For the record Deputy County Attorney, Mauna Kea Trask. You mean as far as if an injunction or Temporary Restraining Order (TRO) is filed, would the severability portion save it? I am not sure at this time.

Chair Hooser: This will not be the end of the conversation, so if you could look into that and maybe at next meeting be prepared to address it again. Thank you. Yes?

Ms. Yukimura: Mauna Kea, I mean, if the Bill is caught up in court, you could say it is still in effect unless there is a court decision on it?

Mr. Trask: Well, what you see usually and although there is a lot of pesticide litigation across the Country. There has been a lot of cases going back to the 1980s. It all depends on how the litigation is launched. You see it come from a variety of different people. What you would probably see a lot of times what they do is a Bill will be passed and the very next day you see a motion for injunction with a temporary or preliminary or however it is styled, that is filed the next day. The injunctions appear to usually enjoin the implementation of the entire law; all of the Sections. The severability portion according to my recollection, I have it right over there, if anything is found to be illegal. The injunction is not a final decision. It is a pause button essentially. That is why I do not know.

Ms. Yukimura: Mauna Kea, if the Bill is found to be preempted or invalid in some way, it could be the whole Bill, right? So, that might jeopardize the study arguably, although I cannot even see that you need a Bill to do this study. Would not possibly a Resolution be an alternative vehicle for doing a study? I mean, ultimately you will need an appropriation Bill.

Mr. Trask: Yes.

Ms. Yukimura: Right. The alternative process would be a Resolution and an appropriation Bill?

Mr. Trask: That is one. I think Councilmember Rapozo mentioned another option. There are options aside from legislating, I guess is what you are saying?

Ms. Yukimura: Options besides a law?

Mr. Trask: Yes.

Ms. Yukimura: Thank you.

Chair Hooser: Councilmember Rapozo.

Mr. Rapozo: But would you not also need a concurrence from the Administration?

Mr. Trask: There is a separation of powers.

Mr. Rapozo: We could put the money in there, but if the Mayor is not interested in moving forward and I am not saying he is or is not, but we can put the money. We have learned that the hard way. We have put money in the Administration's budget in the past and they have just chosen not to do it. We would need the Mayor or the Administration to administer that.

Mr. Trask: Yes. It is checks and balances, separation of powers. Correct.

Mr. Rapozo: Thank you.

Chair Hooser: Any further discussion? Chair Furfaro.

Mr. Furfaro: Thank you, Committee Chair. Mauna Kea, please also when these questions come over, whether this is something that might be done to a Resolution with a Money Bill and so forth, I am referring to Councilmember Rapozo's question here, also seek for to us have some understanding if the signoff is now coming from the Council, how does that authority play into it? I mean that is really important, if we put money in the CIP process, but now the control of that comes under only through approval with the Council how, in fact, would that work and are we encroaching our authority on the Administration? If you could just look into that I would appreciate it, thank you.

Mr. Trask: I will Chair. Thank you.

Mr. Furfaro: Thank you, Mr. Hooser.

Chair Hooser: Thank you. Mr. Bynum.

Mr. Bynum: I think the point as I understand it is if we put the money in a Resolution and a Money Bill, the Administration has options about what they do with that, if anything. If it is part of this Bill and it says the Mayor shall, then he has to implement it, right?

Mr. Furfaro: That is the question we are asking for in writing.

Mr. Trask: I think it is not an easy answer and I apologize for that. It is not an easy answer. There is more to it.

Mr. Bynum: If we pass a law, then people that are applicable to the law have to follow it, right?

Mr. Trask: Yes, that is correct.

Mr. Bynum: If we say Mayor, you are tasked with this and you shall see this consultant hired, he does not have a choice?

Mr. Trask: That is what I am talking about. You cannot mandate which consultant is to be hired.

Mr. Bynum: I did not say that. A consultant would be hired.

Mr. Trask: I would prefer to give you better amped advice and answer.

Mr. Bynum: I will wait for it in writing. Thank you.

Mr. Trask: Thank you.

Mr. Furfaro: Do you need my questions clarified?

Mr. Trask: No, your question is clear, Chair.

Chair Hooser: Councilmember Kagawa.

Mr. Kagawa: Just a quick one for you, Chair Hooser. This health impact study, do you have any time table as to how long it would take? We heard from the Department of Health Director that they are kind of only starting to determine the baseline information. They are trying to make sure that they have a difference of what was prior to I guess seed corn companies. So, from sugar cane and going forward. In order to know the impact, normally you need to compare it against some kind of base line and I was just wondering if we had any estimates as to how long I guess it would take for the health impact study to find results positive or negative regarding health impacts.

Chair Hooser: That is a good question. The language that I have proposed just puts a time on the scope-of-work section. The actual time of the study, I would agree with Councilmember Nakamura and their proposal that it is one (1) or two (2) years possibly to do a proper in-depth comprehensive analysis. But until you do the scope of work and decide what study you are going to do it is difficult to say the exact time.

Mr. Kagawa: It concerns me that the Department of Health, they are kind responsible for doing this for all these years and all they did in all of those years was now they are starting on one chemical Atrazine, I guess. They have not even finished that.

Chair Hooser:
if we could.

I am going excuse Deputy County Attorney,

Mr. Bynum: Thank you.

Chair Hooser: Thank you very much for your help.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Hooser: I agree, and that is why I am proposing that the County authorize the study rather than way for the Department of Health because I believe that the impacts are significant and that we need to take that responsibility. Other discussions on this issue, otherwise we will move around the table with others. Council Chair Furfaro.

Mr. Furfaro: Mr. Hooser, I just want to take a moment to thank the two (2) Councilwomen for this outline and this opportunity to review this further in-depth. Thank you both, ladies.

Chair Hooser: I agree one hundred percent (100%), that this is democracy at work, this is public deliberation, and we are moving forward with this. Thank you. Councilmember Bynum.

Mr. Bynum: I just want to say that I also appreciate the work. This is cool, community, because Mr. Hooser does not know what Ms. Nakamura and Ms. Yukimura were planning and these are similar proposals with similar concerns. This is good work and action. I am not married to what I said earlier. I still think that Chapter 343 provides a template and we can expand beyond that, but I am not married to that. I appreciate this.

Chair Hooser: Are there other possible amendments that might want to be discussed? Councilmember Bynum.

Mr. Bynum: I would like to ask Councilmember Yukimura if she will introduce this amendment on my behalf because I am not a Committee Member. I would like to actually introduce it and perhaps vote on it today, it is the Committee's decision. I would like to do that.

Ms. Yukimura: Can we go around the table and talk about all of the amendments first?

Chair Hooser: Councilmember Yukimura asked if we could go around the table and talk about all of the amendments. I think we are almost all the way around the table. We started with me and now we are at Councilmember Bynum.

Mr. Bynum: Let me distribute this to everyone. I just would like to go – this is mostly housekeeping. I am sorry, did I pass out the wrong one?

Ms. Yukimura: You are passing the right one.

Chair Hooser: I am going to just interject for a second. Councilmember Bynum is not on the Committee. However, we invite all members to participate in the discussion and it will be up to a Committee Member to actually

introduce it. But because Councilmember Bynum has done the work on it, I think it is appropriate to let him describe the amendment. Yes?

Mr. Rapozo: I do not want to be a stickler, but because he is not a Committee Member and unless you have a Councilmember that is going to introduce it, then I do not believe that the Sunshine Law or parliamentary rule allows us to discuss the amendment if it is not going to be introduced. I would suggest, if we are going to have the discussion on the amendment from a non-Committee member, that we have a Committee Member introduce it because otherwise you are having a lot of discussion on an issue that may not be an official amendment and I do not know if that is appropriate.

Chair Hooser: I understand.

Mr. Rapozo: We can get a parliamentary ruling on that. I just think that that is...

Chair Hooser: Yes, we are having general discussion and the rules are suspended. There has been some amendments that may not get introduced. Some I have passed around also for discussion and just for general information. I believe we understand, I understand, and Councilmember Bynum understands that another friendly introduction from a Committee Member would be required. Councilmember Yukimura were you going to comment?

Ms. Yukimura: Yes, I have told Councilmember Bynum that I will introduce his amendment by request not meaning that I necessarily will vote for it, but to get it on the floor. But I have some amendments that I should we should discuss all the amendments and then decide which ones we feel we want to act on and which ones we are just floating for discussion and maybe even further thoughts before our next Committee Meeting.

Chair Hooser: Yes, that was my intent. If that is okay with everyone, we can continue.

Mr. Rapozo: That is okay now that Councilmember Yukimura has said that. She looked apprehensive and I wanted to make sure she was going to introduce the amendment. That is fine, that is perfectly fine.

Chair Hooser: Thank you. We will let Councilmember Bynum speak on Councilmember Yukimura's amendment.

Mr. Bynum: I appreciate the Committee's indulgence and just for the people not familiar with our process, Committee Chair and non-Committee Members cannot introduce amendments, but I have introduced many. I have said since I have been a Councilmember, I will introduce any amendment by request to put it on the floor for discussion. This is a common practice. I just want to go through this because this is some housekeeping and one (1), I think or two (2) substantive amendments. It starts with adding a definition of "beekeeper" which was added at one point. There is a definition of "dwelling" which says it means "a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating, and sanitation." It will become obvious as we go through this, why we need these new definitions. "Medical facility" means "a facility licensed by the State of Hawai'i to provide medical services." "Park" means "any park, park roadway, playground, beach right-of-way, or other recreation areas under the control and management and operation of the County of Kaua'i or

State of Hawai'i." "Perennial Waterway" means "any natural waterway that has continuous flow in parts of its water bed year round during years of normal rainfall." "Public roadway," these are all definitions, means "a roadway on which the public is allowed to generally travel in a vehicle without obtaining special permission or providing advance notice." "School" means "an institution with an organized curriculum offering construction." "Shoreline" means "the upper reaches wash of the waves other than storm and seismic waves at high tide during the season of the year in which the highest wash of the wave occurs usually evidenced by the edge of vegetation or growth or the upper limits of debris left by the wash of waves." It removes the definition of "stream." It takes out "stream" means a body of water running in a channel, bed, or water course which is less narrow than a river." In Section 22-22.4, Mandatory Disclosure of Pesticides and Genetically Modified Organisms. Section A1, the public posting of signs in an area that pesticides are to be applied a minimum of, this changes it from seventy-two (72) hours to forty-eight (48) hours prior to and changes the seventy-two (72) hours post to forty-eight (48) hours. Section 2 in there says disclosure of information must be provided to, the new language is any beekeeper. Now in Section 22-22.5 pesticide buffer zones, there are some changes. Number one, no pesticide of any kind restricted use or general use or experimental use may be used within five hundred (500) feet of the property boundary of any school, medical facility, park, or residential areas. This clarifies that we are talking about property boundaries. No pesticides of any kind restricted use, general use, or experimental use, may be used within five hundred (500) feet of any dwelling. Number two becomes number three and removes "stream, river, or" so it now applies to the shoreline. Number four, no pesticide of any kind may be used within five hundred (500) feet of a perennial waterway that flows into the ocean. Number five, no pesticide of any kind shall be used within five hundred (500) feet of a public roadway. What this amendment does, changes those definitions to be more clarifying. It takes out the definition "stream" to be more descriptive of a perennial waterway. We have the State Aquatic Biologist here today to discuss that if necessary on what the definition is and the intention in a subsequent after further research would be to name those on Kaua'i. They have the definition that makes sense. Perennial waterway – "perennial" if you look it up in the dictionary, says that it is a stream that flows in all four (4) seasons, either continuously or frequently. The purpose here is to make it very clear, this is not intended for a reservoirs that are part of an irrigation system. It is not intended for irrigation ditches that do not drain into the ocean. It is not intended for internal roadways that the companies have that they have control over. It is not intended for any of those things. For each company that impact of these are greatly diminished from the initial concerns and it can be defined down to the square foot eventually of how the land impact will be on each agricultural entity. The other substantive change, is those in planning know there are very large agriculture parcels. Wait a minute, what am I missing? Did I miss that? One section may have inadvertently been left out of the draft. Let me describe it and then we will fix it. On an agriculture parcel that is not subject to Condominium Property Regime (CPR) and is a parcel over ten (10) acres, you do not have to buffer the property like you do in residential and other areas, right? You buffer the dwelling on that property. Let me give an example. You might have a one thousand (1,000) acre parcel and there is one (1) dwelling. The intention never was for anybody to say, "You have to buffer that entire parcel." We do not have those similar circumstances in the other zoning. The buffer would be zoning for residential and these others, but for agriculture, there would be a provision that under certain circumstances and those two (2) circumstances are a parcel greater than ten (10) acres that has not been subject to Condominium Property Regime, then the buffers on that dwelling. So, you can see the impact. You do not have a buffer around a thousand acre property perimeter, you have a buffer around the residence and the rest of that continues to be available. Does this make sense? Any

questions? Let me do it graphically. Here is an agriculture parcel of a thousand (1,000) acres. There is one (1) dwelling here and there is one (1) dwelling here, there are two (2). A dwelling here and here, five hundred (500) feet around these dwellings would be the buffer, not five hundred (500) feet – and it would allow agricultural activities, including what is being done by the five (5) companies impacted to continue on rest of the parcel. I will try this one more time. Residential parcels are generally small and so we are saying that you have to buffer from residences, schools, hospitals, based on the parcel. But these large agriculture parcels that may have a dwelling are not going to say you have lost the entire use of a thousand acres because there is one (1) dwelling on it. We are going to say buffer the dwelling, the rest of the acreage, and the parcel boundary, no longer requires buffering. There is one paragraph missing that describes those circumstances and that is my fault. I apologize. But that can be fixed quickly. I would entertain any questions and to me, these are reasonable, logical amendments that further clarify and will have the impact of making it clear how much land buffers will impact. Yes?

Chair Hooser:

Yes, Councilmember Nakamura.

Ms. Nakamura:

Do you have any maps that show what the impacts of these changes would be to the actual five (5) operations?

Mr. Bynum:

Yes. Let me answer that question a little more fully. The County has a GIS system with very good quality aerial photographs. We know TMKs. As I said earlier, we do not know which ones are being used by whom which is a problem that we need to address separately. It takes time and we have one GIS person that works for the Administration and we established protocols for accessing that person's services. We do not have that in your staff. I am working with that person, with as much time that Information Technology (IT) is willing to allow him and we have started on two (2) of the five (5) companies and that is why I asked today. We are almost complete with Kaua'i Coffee, we are starting on BASF, and I intend to meet with the other companies. So, that is the end product.

Ms. Nakamura:
be available?

When do you think that information would

Mr. Bynum:

It depends on how quickly I find out which parcels apply to which companies and how quickly I can meet with them. I talked to Dow and tried to set up something for next week and then access to this resource person and separate things.

Ms. Nakamura:

I think that is really good information that we should have before we make any decision so that we know what the actual impacts are. I thank you for doing that work and getting that going.

Mr. Bynum:

I just want to say that the impacts are based on the parameters of the Bill. So, they may be more on one company than another depending on where they are.

Ms. Nakamura:
visually and to see that.

It would be good to know that upfront,

Mr. Bynum:

I am a data person, a data consumer. I was educated to understand analysis through data. We have very serious issues

collecting data and an even more serious issues putting it in a format that you can draw meaningful conclusion from. But that is the intention here.

Chair Hooser: If I could speak to the issue. This proposal and I want to thank Councilmember Bynum for putting it together, is intended to deal with the issues that the industry has put forward initially, that drainage ditches and irrigation and interior roads had this dramatic this impact on their business. It was that issue, those specific issues in the language in my opinion, have been resolved. As to its impact on their operations, just like all of the other provisions it is very difficult to determine those without the proper information and assistance from the companies. If they are able to provide Councilmember Bynum with the TMKs or maybe they have maps. They came up with the maps before showing the impacts so we could find tune it a little bit. Yes?

Ms. Nakamura: I thought for Kaua'i Coffee and some others, that the issue of five hundred (500) feet of any public roadway was also an issue. That that was going to wipe out a number of orchards.

Chair Hooser: In their public testimony they talked about the interior roadways primarily. I have not heard them say they would be supporting the Bill if we changed the other. I think we could come up with some maps that would show the impacts and certainly Kaua'i Coffee would be able to come up with some maps I would think also.

Ms. Nakamura: If they are here we can have them respond to that.

Chair Hooser: Sure. Councilmember Bynum.

Mr. Bynum: That can be calculated with or without roadways currently. I want to point out that the five hundred (500) n foot buffer does not keep anyone from growing coffee in that. It just restricts the application of pesticides in the buffer. There are alternatives to pesticides. They are more expensive, but there are alternatives.

Chair Hooser: This is a Committee process and a group process and so if other members have another amendments or do not like this amendment and like another amendment or want to propose others, this is democracy here. Yes?

Ms. Nakamura: I have a question also about that five hundred (500) foot buffer. What is the road going out to Polihale? Is that considered a public roadway?

Mr. Bynum: Under this definition, absolutely.

Ms. Nakamura: So, that would impact operations in the Mānā Plain then?

Chair Hooser: Right.

Mr. Bynum: It will impact the amount of area that the company who has that property can spray pesticides and mapping that out, will determine pretty accurate what the impact is. Is it eighty percent (80%) of the land or ten percent (10%)?

Chair Hooser: I think, clearly the discussion from the beginning has been balancing impacts, health impacts with economic impacts. Frequently used public roads, perhaps should be treated equally. Those who get more traffic, less traffic, bicyclists that are on the road daily. I mean there are all kinds of ways to look at it. We talked about plantation camps. Should plantation camps get less protection than those in Waimea? Those kind of discussion have to happen and I think the spirit and the actual language of this amendment reflects those realities. Councilmember Rapozo?

Mr. Rapozo: This Bill is based on the premise of health and safety and the dangers of pesticides. I am battling with this debate over plantation housing or legacy residences. I mean, I am even troubled that this is only limited to a specific industry. If you look at Pua Kea Golf Course, Kiahuna Golf Course, Po'ipū Bay Golf Course, or Princeville Golf Course, a lot of these golf courses are using pesticides very near to residential areas. If the premise is health and safety and the dangers of pesticides, I am really troubled that we are only focusing on a specific industry, but yet, we do not even consider because you are a legacy resident, that we are going to allow that to happen. I mean, if it is dangerous for someone in Kekaha or Waimea, then it is sure as heck dangerous for someone in Princeville. It is sure as heck dangerous for someone in Po'ipū. I am just having difficulty, selective enforcement or selective legislation where we are going to just worry about this place. But a pesticide is a pesticide is a pesticide no matter where you live or how far away you are from a golf course. We know that golf courses use pesticides, herbicides, and fertilizers and so does the County in certain cases in parks and so forth. As I hear the discussion going towards let us make concessions for that group of people, I am having trouble with that because the dangers are the same no matter where you go.

Chair Hooser: May I respond? The golf courses in terms of the data Restricted Use Pesticides are the focus of this Bill. The combined use of all of the golf courses on the island is about two hundred (200) pounds of Restricted Use Pesticides a year versus eighteen (18) tons for the five (5) industries that are the utmost focus. To a certain extent I agree a pesticide is a pesticide, but the reality is that different pesticides have different impacts, different scope and scale of it. I do agree one hundred percent (100%) though, that if we are going to have buffer zones that we should not fail to protect legacy neighborhoods so to speak and that we should be uniform. Yes?

Mr. Rapozo: I wanted to make clear, this amendment does not ask say restricted use. It is no pesticide of any kind. Restricted use, general use, or experimental may be used within five hundred (500) feet. It is any pesticide, not just restricted use.

Chair Hooser: But it is limited to the companies that use the eighteen (18) tons and if with knew how much general use then it might be easier to make a decision. But the scale, the scale is the intent.

Mr. Rapozo: I understand.

Chair Hooser: Also, I would say that the County and the State does not use Restricted Use Pesticides on the highways or parks.

Mr. Rapozo: But they use general use.

Chair Hooser: Yes, they do.

Mr. Rapozo: Again, I guess my point is that if the premise of the Bill is the danger of pesticides, general use or restricted use, how can we say because that industry buys eighteen (18) tons and the other industry does not, I just find it difficult because we are protecting a segment of the community, but not everyone. I guess that is what I am battling with right now. How do we keep everybody safe?

Chair Hooser: I understand and others have suggested that we expand the scope. If the majority of members want to do that, we can entertain that discussion also. Councilmember Yukimura.

Mr. Yukimura: I agree with Councilmember Rapozo that exempting the legacy camps does not make sense. If protection is the issue, and one of the questions I wanted to ask the seed companies was what about vegetative barriers and how does that increase the protection if you have to lessen the buffer zone? I mean, that is the kind of fact-finding that I wanted to do which would help me develop better amendments to this Bill. But I also want to point out that the way it is written right now, a backpack sprayer has to be five hundred (500) feet from a school. Arguably, golf courses do not use tractors to apply their pesticides and so the methodology of application is also an issue. So, to tailor it to get the protection we all want to get without unintended consequences or unnecessary consequences that could have big economic damage, we need to really understand the whole processes better.

Chair Hooser: Further discussion? Then perhaps we can move on to the next possible amendment. Yes, Councilmember Bynum?

Mr. Bynum: I just wanted to say this amendment, I do not know where we started to talk about legacy communities and what questions JoAnn wanted to ask, I would really like feedback on this amendment which has nothing do with legacies. It had nothing to do...

Chair Hooser: Good point.

Mr. Bynum: I would like to hear more specific things. I think this amendment is ready to go and vote on personally. If people think I am wrong, that is the specifics that I would like to hear. Which definition does not work? Do we want to see if it is a thousand acre parcel, you lose use of it or are we going to recognize that that is unique circumstance?

Mr. Rapozo: I will call for the question, if you want to call for the vote.

Ms. Yukimura: We have not made a motion.

Mr. Bynum: We have not put it on yet.

Mr. Rapozo: You said you were ready.

Mr. Bynum: I said I wanted feedback.

Mr. Rapozo: Let us roll.

Chair Hooser: We are going to continue the program. We are going to go around the table and talk about amendments that might be

discussed and we are talking about Councilmember Bynum's idea. Is this any other comments or questions on that idea? Council Chair.

Mr. Furfaro: Thank you, Committee Chair. May I ask we consider in the definition of "beekeeper," we consider a definition that references it is a person who is licensed in the State of Hawai'i as raising bees. The reason I say that at some future point, we may want some assistance for our beekeepers here on Kaua'i whether it is them harvesting other queens to be sold to other parts or we might want to offer some credits to have their product tested as long as we know they are licensed. I would just like the possibility of considering that "beekeeper" means a person who is licensed in Hawai'i for the raising of bees and honey, if that could be considered.

Chair Hooser: Thank you for the suggestion. I am sure that the introducer or the person who is working on the amendment heard you also. Councilmember Yukimura.

Ms. Yukimura: While we are on bees...

Mr. Bynum: It is in there.
Ms. Yukimura: What is?

Mr. Bynum: Notification. That is just a definition.

Ms. Yukimura: In terms of mandatory disclosure of pesticides and Genetically Modified Organisms, the section is modified to add beekeeper and I was thinking that requesting beekeeper just like requesting property owner would be better, because otherwise the liability would be on the seed companies to know everybody beekeeper around. Councilmember Bynum has pointed out there is a process for requiring beekeepers to register so that the companies know there is a beekeeper in the area. I think that the addition of "park" is a big change, is it not?

Mr. Bynum: I am sorry, yes. I believe it was an oversight in the initial Bill, but yes.

Ms. Yukimura: That is true. I mean that will have implications it seems that need to be measured, too, in terms of impacts.

Mr. Bynum: Yes, absolutely.

Ms. Yukimura: Maybe you can give us the justification or adding parks?

Chair Hooser: Let us wait until she is finished? Are you finished?

Ms. Yukimura: Yes, I am finished on that.

Chair Hooser: Councilmember Bynum.

Mr. Bynum: Thank you for pointing that out because it did not have "parks" before and we added the definition of "parks" and that is a substantive change. I will say for myself, I believe the intention was where the public congregates and spends time we have concerns. I would like to point out this does not include commercial property. I personally think it should, but that is not

in here and I am not proposing to add it. I do not know if my kids spent hours and hours and hours in parks and I would be surprised if anybody would be surprised that parks would be included. Parks, schools, hospitals, and roadsides, let us talk more about that and we are and we are looking at it. But at this stage, parks is logical. Commercial properties are not put in here.

Chair Hooser: Thank you. Councilmember Yukimura.

Mr. Bynum: I am sorry, indulgence just a second.

Chair Hooser: Sure.

Mr. Bynum: The beekeeper is just a definition and in Section 22.24 they are added and it says disclosure will be provided to these people, which are beekeeper, requesting property owner lessee, or person otherwise occupying any property adjacent to the property where pesticides is applied or anticipate to be applied within twenty-four (24) hours of receiving written requests. Those people who have special notification privileges we have added beekeeper and it is only based on written request.

Chair Hooser: Councilmember Yukimura.

Ms. Yukimura: I would like to ask that this amendment be passed out to the companies and anybody from the public who wants one.

Chair Hooser: Why do not we do that? Can we move on to the next item?

Ms. Yukimura: I have a further question about this amendment. It just does raise the issue that Councilmember Rapozo has raised. The breadth of this whole Bill does get expanded when the buffer is applied to General Use Pesticides. It seems that the initial threshold of companies that use a lot of pesticides was more as to Restricted Use Pesticides. I guess I would like to ask the co-introducers to maybe give us some background as to why general use is included here because that triggers the issue of every other General Use Pesticide user.

Chair Hooser: I would be happy to address that. The research that was done showed clearly that a small segment of the business community uses ninety-nine percent (99%) of Restricted Use Pesticides. It is really clear the information ninety-nine percent (99%) of these Restricted Use Pesticides in agriculture are used by these five (5) companies. If you study farming and agriculture, the ratio varies from seventy percent (70%) to thirty percent (30%) to eighty percent (80%) to twenty percent (20%) with lion share of the pesticide use would be General Use Pesticides. So, that would mean that seed companies would be using eighty (80) tons or one hundred (100) tons of General Use Pesticides. This is industrial farming. Some would say it is not farming, but it is an industrial use of agricultural lands. It is not the farm your mom and I worked at or saying your parents had...

Mr. Bynum: It is not your dad's farm.

Chair Hooser: It is not your dad's farm. It is an industrial operation. So, barring any other information and the companies have not been forthcoming in providing that information, barring any other information, every indication that they are using massive amounts of glasophate and they have not

stood up and said differently. Massive amounts of glasophate, many scientists will argue, have potential health impacts also. If you are using one hundred (100) tons of glasophate year after year after year and you are using it next to schools, you are using it next streams and coastlines that also has impacts on health and environment. If the companies would tell us differently, then perhaps we could adjust this, but they are not telling us differently. Every indication this is massive scale. That is why it is included in there. Yes?

Ms. Yukimura: So, the Department of Agriculture has a different kind of jurisdiction over Restricted Use Pesticides and General Use Pesticides, is that correct?

Chair Hooser: Yes. There is no public record that I am aware of the sale of General Use Pesticides. I asked when the Department of Agriculture was here, if there was any public record of that and they said no. We have no idea whatsoever how much is being used in our community. In my investigation with the City and County and the golf courses and a number of other people found nobody is using Restricted Use Pesticides to the degree they are. Yes? *(We are having a meeting and the public is welcome to observe and there will be a time for public comment later.)* The records I have, show others using it, but not nearly the scale. Like I said, all of the golf courses combined was two hundred (200) pounds.

Ms. Yukimura: One other way to look at the issues then is to see why Roundup, was designates a General Use Pesticide. If it allegedly has impacts on health, why should it not be a Restricted Use Pesticide? It is just more difficult – I am seeing that it is a whole other issue. Restricted Use Pesticides are clearly there are toxic, at least in the judgment of the regulatory system right now. It feels like we are trying to regulate these two (2) categories of pesticides with the same regulation and the main problem may be that designation. I am just thinking out loud.

Chair Hooser: I appreciate the conversation. I really do. I think we all should look at the data and come to our conclusion. My conclusion given the data I have been given and working with Councilmember Bynum, is that these should be included. It is disclosure and buffer and if the majority of the Committee and the majority of the Council feels differently, then the process would be to vote on it and move forward. Yes?

Ms. Yukimura: But this will require me to understand the longevity of Roundup and how it traveled and all of that in terms of how you establish a buffer? Do you know what mean?

Chair Hooser: The process is...yes? Councilmember Bynum.

Mr. Bynum: I appreciate this discussion as well. Councilmember Hooser's explanation is perfectly logical and appropriate to me. This Bill...I am not trying to make judgments about Roundup or GM foods. I am making judgments about the practices of these companies on Kaua'i. If they are not willing to tell us how much General Use Pesticides are being used, then it makes sense to it to be there. I will give you another answer, if you listen Dr. Evslin, he told you that the industry loved Roundup because it only does plant cells. It does not hurt human cells, mammals, and that is true. Dr. Evslin said though, they are finding out that it attacks the bacteria that lives in your gut and on your skin that is related to autoimmune, autism, and all of these things that the Pediatricians are

finding are related to pesticides. But that is not what this Bill is about. It is not whether this is safe or not. It is about the practices here on Kaua'i and Councilmember Hooser's answer makes perfect sense to me. If I knew how many General Use Pesticides were being used and where, then maybe it would be logical to change that. But without that knowledge base, and then it would get me into a discussion about something called the precautionary principles. But I will not go there.

Chair Hooser: If I could interrupt. I am going to interrupt for a second.

Mr. Bynum: I am done.

Chair Hooser: We have a lot of people in the public here that want to testify. We welcome to investigate glyphosate and all of these things and make up our minds and talk to scientists and doctors and do our research. I would like to, if we could, if I can have concurrence from the members to talk about any other – we still have Councilmember Yukimura, if you have possible amendments and then if we want to vote, we can vote. Otherwise, we can go to public testimony. It is going to be a long night if we are careful. It is probably a long night anyway. Councilmember Yukimura.

Ms. Yukimura: I have several major amendments that I am working on that need more time. So, I am not ready to introduce them today and, in fact, some of my questions to the seed companies would help me shape these amendments. One of them was going to be asked on behalf of the member of the public, Wayne Jacintho. Anyway, I need more time. I do have one (1) minor, an easy one. It is along the lines of amendments that was circulated by yourself, Chair Hooser, because shortly after the Bill was introduced we did get a request from the Invasive Species Committee to exempt their use of experimental pesticides in open air because they need to test whether they can get to invasive species in the interior of the island. They cannot test it in the closed environment and they need to be able to use it also. As Chair Hooser pointed out, the section on open air testing of experimental pesticides had no threshold for quantity used by the user. I have an amendment that would specifically exempt State, Federal, or County government or governmental partners that use pesticides related to invasive species.

Chair Hooser: Thank you. Any discussion on Councilmember Yukimura's amendment?

Ms. Nakamura: I saw that memo from the Kaua'i Invasive Species Committee and I, too, was going to work on a similar amendment. I think we have to take that into consideration.

Chair Hooser: The amendments achieve the same end, the two. It is a matter of which one? I believe Councilmember Yukimura's amendment is specific to those particular operations, mine is specific from the threshold of the Bill and commercial entities. Perhaps my exemption is broader. It is the pleasure of the Committee, whether they want a broader proposal or a narrower one. Yes?

Ms. Yukimura: I might mention that I also tried to correct what appeared to me to be a – I want to say an unclear provision because it said, "it shall be unlawful to testify or use any experimental pesticide except for those fully contained within a laboratory, etcetera, etcetera, designed to prevent the escape of such substance into the open environment, unless prohibited." I had a hard time understanding prohibition against a prohibition. Anyway, there is an attempt to

correct and if I have misunderstood it, we can correct that. But since we are not going to vote on it. We could vote on it today? Do you understand?

Chair Hooser: Could I ask a question or two (2)?

Ms. Yukimura: Yes.

Chair Hooser: So, you are deleting "A"? We do not need "A," just effective January 1, 2014?

Ms. Yukimura: Yes.

Chair Hooser: Then you are deleting the period?

Ms. Yukimura: It is a structure...

Chair Hooser: Effective, it shall be unlawful to test or use any experimental...

Ms. Yukimura: In a structure designed to prevent the escape of such substance...

Chair Hooser: (Inaudible) contain, structure, design to prevent the escape of substances in the environment, and that is fully contained testing with number of pesticides...yes, I think that is good.

Ms. Yukimura: The old language and Peter, we need a bracket, I think

Chair Hooser: I am good with that.

Ms. Yukimura: We have to bracket out specifically prohibited. Excuse me, that is correct. It is specifically prohibited by permit.

Chair Hooser: Right, so if the permit says you cannot do this inside, then this does not apply.

Ms. Yukimura: That is correct.

Chair Hooser: No, this is good.

Ms. Yukimura: So, that is one and I will explain my second amendment so we have all the amendments on the table, so to speak, not yet moved but out and circulated. This another amendment that I would like to get feedback on, and maybe if the feedback is good, I would propose it. But it actually proposes to delete the whole permitting section of the Bill. We had Larry Dill here from Public Works and it is just hard for me to conceive Public Works being the permitting agent for all commercial agricultural entities that are intentionally or knowingly possess Genetically Modified Organisms because they have no expertise and the County is not even able to properly regulate things within their proper expertise, such as vacation rentals. It is inconceivable to me, to give Public Works a subject of permitting that is totally foreign to their work. In thinking about disclosure requirements and buffers, the amendment I would be working on is to disclosure in terms of who would administer that. I think it would be logical to partner with the Department of Agriculture and ask them to work with us to work on a website of disclosure. I think they might be doing it anyway, but I am thinking

that would be a more cost effective process, if we can get their cooperative agreement. I am not clear yet who would enforce buffers. It may be that our grading people because it is just a matter of measuring right now. If we get into vegetation and best practice soil conservation methods, actually, Public Works Grading and Grubbing Permit is the one that is actually connected to that yet. But we could address that with respect to buffers.

Chair Hooser: Discussion?

Mr. Furfaro: I would like to go back to the first amendment as we are talking about invasive species. JoAnn, this is beyond the citric acid dry line for coqui frogs?

Ms. Yukimura: That is a really good question actually.

Chair Hooser: I was just going to say, if I could comment.

Ms. Yukimura: Sure.

Chair Hooser: I think is only applies to experimental pesticides. I do not know if the line is a pesticide.

Ms. Yukimura: It might be.

Mr. Furfaro: It is. We have had this discussion.

Chair Hooser: In any case, it would not harm it. It would allow it.

Mr. Furfaro: My question was asked. Thank you. I just want to remind you folks, I like all the work being done in the Committee. I am sorry about the specific about bees and coqui frogs.

Ms. Yukimura: No, that is a good question.

Mr. Furfaro: Thank you so much.

Chair Hooser: Councilmember Bynum.

Mr. Bynum: This is regarding JoAnn's proposed amendment. It was just circulate which in essence removes the entire permitting provision from the Bill and I am just going to argue that is way premature. As it is stated in here, the permitting leads from the study. Now, we are discussing how we do the study, but the study is going to lead to permitting and I think it is quite possible that the regulatory and permitting will not be that difficult. I do not expect this study is going to give some smoking gun. I do not expect that this study is going to – I think it will lead to, if we are going to put buffers and other kinds of restrictions, there has to be a process. This anticipates that process. If we go down this path and we decide that it is too complicated or difficult, then we make provisions. But you do not though the baby out before you get there and find out what you need. I would just argue it may be at some point appropriate to remove this provision, not at this stage in the process.

Mr. Rapozo: Mr. Chair?

Chair Hooser: Councilmember Rapozo.

Mr. Rapozo: I am going to raise a point of order because I brought it up earlier about the amendment and now we are having a bunch of amendments floating around and discussion on all the amendments and I believe that by Robert's Rules, amendments need to be moved onto the table for discussion. That is the rule. If we want, I will take a five (5) minute recess and you can verify with area Parliamentarian, that we cannot float five (5) or six (6) amendments and have a multitude of discussion, in my opinion. The motion has to be made and it has to be seconded and then the discussion can be made. The first one, okay fine, we will defer to the Chair's authority, I guess. But I am going to raise the point now Mr. Chair, and I will ask you to rule on it because I think now it is out of control. What this tells me when we have all of these amendments and we are not ready for these amendments, then we should defer. The amendment can be moved on to the floor for discussion, have the discussion, and then we can defer the vote to a later time. But to just keeping shot gunning these amendments not only are we violating the rule, it does not make for good discussion because we are crossing over that amendment versus this amendment. I would suggest, Mr. Chair, that that would be my point that you would have to rule on it. If we could take a one or two (2) minute recess and I do not know where Scott is, he is our Parliamentarian. I think it is pretty clear in the rules that you need to move it onto the floor and get a second.

Chair Hooser: We can certainly take a short recess to check with that. As you know though, the Sunshine Law restricts us from having general discussions sometimes outside of this forum. I think the only way for us to make intelligent decisions is to have a robust discussion which I think we are having right now, but we could take a short recess and check to make sure we are in compliance.

Mr. Rapozo: I just want to clarify, Mr. Chair, that it is not the Sunshine Law that I am concerned about, it is the rules, the Parliamentary Procedure that in order for us to have the formal discussion, the motion to amend has to be made and seconded, then we can have the discussion.

Chair Hooser: I suspended the rules a long time ago and the meeting has never been called back to order. We are not working under the rules is any understanding, but let us take a short recess and talk to the Parliamentarian. We need a caption break for ten (10) minutes.

There being no objections, the Committee recessed at 4:55 p.m.

There being no objections, the Committee reconvened at 5:08 p.m., and proceeded as follow:

Chair Hooser: We are going to resume the meeting. The Chair has consulted with appropriate staff and the ruling is that the rules are suspended and we will continue with the discussion. Councilmember Yukimura.

Ms. Yukimura: We are discussing my proposed amendment to eliminate the permitting section. Councilmember Bynum has said that it is premature to eliminate it. I would argue that it is premature to even have it because when you have a permitting section, you have standards for permitting. You say when a permit should be issued and what it should not. This says or alludes to, it says, "The permitting process shall include, but not limited to provisions that facilitate the elimination or mitigation of significant effects identified in the Environmental Impact Statement that is yet to be done. I would argue if we get an effective health and environmental assessment or study, permitting may not even be the solution depending on what our data shows and

permitting may be something that the Department of Health or the Department of Agriculture needs to do or petition the USD to change its rules or whatever. We do not know what the solutions are because we have not really identified the problem with the data which this section acknowledges by referring to the EIS process. I think we can always come back to the permitting section after we get our data and that permitting section should develop standards for permitting and we would also know better who would be the best agency to administer these permits. So, that is why I think it would be appropriate to delete this section as I am proposing.

Chair Hooser:
Councilmember Kagawa.

Discussion from Committee Members? Yes,

Mr. Kagawa: Thank you, Chair. The last time we had the Committee Meeting, we deferred it for a little more than a month. The Chair had asked that members be prepared with your amendments or be willing to vote yay or nay. Let us move forward. It seems like we are having a lot of amendments, but yet we still have a lot of questions in regards to the impacts of those because I guess these new impacts have not been analyzed by the seed companies etcetera to say what is their new impact with the amendments. It just seems to me that people need to spend more time and when they have their amendments to put it up and show us what the changes are, those kind of things, or we can just do it as the Chair said and today decide just on the original Bill, yay or nay and perhaps we could have a new Bill come out or Resolution, whichever way the Committee and Council wants to go from here. No doubt in the discussion coming from all about, I think there is consensus that we need something done for the local people that are affected. I think it is just which way we believe is going to be the faster way to get us the results. That is the question.

Chair Hooser: Thank you very much, any other comments specifically on Councilmember Yukimura's proposal? Yes Councilmember Bynum.

Mr. Bynum: I think it is fair game for JoAnn to say, "that I am saying the permitting is premature and to remove it and she is saying it is premature to put it in." I just want to be blunt and honest, you put together a Bill to accomplish the intended goal. If your intended goal is here, it needs to include permitting. It is not unprecedented at all for the specifics of that permitting to come based on the progress of the Bill. That is not unprecedented, but there is a political side of this, too. If we lose something here, we have to start over again. We have to go through public hear and we have done all of that. We have already done it. Let us carry this through. I am kind of agreeing with Ross Kagawa. Let us carry this through, deal with the issues that are there, vote on amendments, and do it. But I will not vote to remove the permitting at this stage. I do not get to vote in this Committee anyways.

Chair Hooser: Thank you for your comments. I will make some comments and then it seems pretty clear to me that we are not going to reach consensus on amendments today. There are questions that everyone has raised about the various amendments. I do not anticipate that moving forward. I would like to get this discussion out of way as quickly as we can so the public waiting patiently, some waiting since 6:00 a.m., could be offered their opportunity to speak and we can get home to our families at a reasonable hour. The amendment as proposed by Councilmember Yukimura, I also believe is way premature. This Bill is put together with the purpose. I mean you cannot determine impacts unless you have disclosure. You cannot do a study unless you know what to study, unless you know what the chemicals are, you know what the situation is. You have to have the disclosure in order to have the study. Then the study more than likely or maybe

possibly not, will show impacts and the only way to deal with the impacts is through a permitting regime of some sort. The intention is to have it flow through and to respond to the results of the study with appropriate permitting measures whether they be few or many. But that is the purpose. I do believe it is premature and I do not believe we are going to vote on it today. I would rather move on to public testimony, if we could. Is there any further discussion? Councilmember Kagawa.

Mr. Kagawa: Thank you, Mr. Chair. I am kind of inclined to support having Councilmember Yukimura just have a quick Q&A with the seed people. She had expressed to us on a couple of occasions already that it is going to be critical in our decision yay or nay on amendments as well as the Bill and to me, if it is that important, she is a member of the Committee and let us just do it.

Chair Hooser: Yes, Councilmember Yukimura.

Ms. Yukimura: I appreciate that consideration. Given the time and everything, if we do have the companies before us today, I would rather have public testimony first because in deference to the public who has been waiting that long. Then if we are not going to vote, I do want to prepare for the amendments. Then at the end of the public testimony have the companies come forward.

Chair Hooser: Councilmember Nakamura.

Ms. Nakamura: I agree with Councilmember Kagawa that this is our deliberation period and I think it is really important. We have the resources here to answer the questions so we can prepare the amendments that we think are necessary. For me, that to me, that takes precedence over other comments.

Chair Hooser: Is the suggestion to resume the discussion with the industry people here and allow Councilmember Yukimura and any other Councilmember that wants to take another ten (10) minutes to move forward, is ten (10) minutes a reasonable time? Is that okay?

Mr. Kagawa: Yes.

Chair Hooser: Yes, Councilmember.

Mr. Rapozo: I do not have any questions.

Chair Hooser: It is only fair that if one Councilmember is going to be resuming and opening up the discussion again, there may be need for follow-up, there may be other people. I want to just set some clear rules we will let Councilmember Yukimura go first for ten (10) minutes and then if any other Councilmember wants to do ten (10) minutes after that, they are allowed one (1) ten (10) minutes segment and we will go from Councilmember Yukimura to Councilmember Kagawa. Yes?

Mr. Kagawa: I just wanted to say that I did not have any more questions for the seed company. I think we have had a lot of time. I think that Councilmember Yukimura felt a little cheated or whatever and I want to let her know that she deserves what she wants. Thank you.

Mr. Rapozo: Such a good man.

Chair Hooser: I have a long list of questions.
Councilmember Yukimura, if you want to call up whomever you want to call up?

Ms. Yukimura: I would like to have all the companies come forward again, please.

There being no objections, the rules were suspended.

Ms. Yukimura: While you are coming up, I am going to ask my questions so we can get the time maximized. You have responded to a question in writing, but I want it on the record verbally. That question is are you growing pharmaceutical crops and have you grown pharmaceutical GMO crops in the last ten (1) years? I would like you to state your company name and say yes, yes, no, no, whatever the answer is. Mark.

Mr. Phillipson: Mark Phillipson, Syngenta. No pharmaceutical or biopharmaceutical crops in the last ten (10) years.

Ms. Yukimura: Or now?

Mr. Phillipson: Or now, presently, that is correct.

Ms. Yukimura: Cindy?

Ms. Goldstein: DuPont Pioneer, we are not growing biopharmaceutical crops nor have we in the past ten (10) years.

KRIBY KESTOR: BASF, no pharmaceuticals or bio-derived pharmaceutical crops in the last ten (10) years.

Ms. Yukimura: Thank you.

Mr. Horton: Dow AgroScience, no currently and none in our history.

Ms. Yukimura: I do not assume Kaua'i Coffee is growing biopharmaceutical crops. Thank you. Wayne, I do have a question for Kaua'i Coffee. People are saying that you can do the five hundred (500) foot buffer, just do not spray pesticides. Can you do that and farm economically?

Mr. Katayama: The short answer is no. They are basically limited herbicides – principally we use herbicides on our farms which is killing plants, yes. There are very little viable alternatives to that.

Ms. Yukimura: You have looked and there is none?

Mr. Katayama: I mean the real economics is that the less we use, the better. Using more is not good. Again, we always look for the economic methods of doing things. We do not go out there and randomly spray or recklessly spray. I think the key element here in moving forward and you have all sort of touched upon it today is that we need to have a community solution and we need to do that in the environment of trust. It is very difficult to lay yourself out there if you do not have that element of trust.

Ms. Yukimura: Thank you. For all of you and this is with regards to buffers and goes to the issue of your legacy housing. I am wondering

what kind of alternatives to buffers you might suggest that might be a shorter distance, but still as much or more protection, if any? Do you have any thoughts about that? The other thought I am having is that you would have five hundred (500) foot buffer or a case specific condition developed by a Pesticide Advisory Committee with expertise and maybe community representation. Those are the ideas floating in my mind and any thoughts that you would have on that would be welcomed.

Mr. Katayama: Those are good ideas and I think we will look into what alternatives do we have to limit or eliminate the exposure of any kind of spraying with a smaller buffer? I mean we could put wind screens or other kinds of things. This is sort of a new thought that was surfaced today and we will look at it. I think those are the kinds of viable operating methods that we can do.

Ms. Yukimura: I do not know when our next meeting is, but it is somewhat time constrained. The faster you can get back to me, the better.

Mr. Horton: We also have the legacy villages on our farm.

Ms. Yukimura: Yes, Kaumakani and Pākalā.

Mr. Horton: We do have wind breaks. Those are lined with trees so I think that that is a good approach to get that added protection that a wind break offers.

Ms. Yukimura: Do you feel that this is keeping the pesticides from getting to exposing people?

Mr. Horton: I think so. I think you combine those wind breaks with what I said earlier, where we have cases where the breaks are there and we do not farm those fields voluntarily. I think you combine the two and where we do farm in the vicinity of the camp, we only farm on the traditionally the downwind side of those camps and we have the trees too.

Ms. Yukimura: You farm only on the downwind side?

Mr. Horton: That is correct.

Ms. Yukimura: Thank you. Kirby.

Mr. Kestor: I guess the answer would be yes, there are things I think that could be done. There are some practices being done already that may or may not be appropriate for law, but there are things like I have been thinking of it from the way just to be able to explain our practices to the public. We incorporated using some of our Conservation Plan, the grassed areas around our fields as a talking points for items like drift. If you had excessive herbicide drift your buffers would be dead or you would not find insects. Those are just some talking points like a pesticide advisory panel or whoever could run it. Those are more we are talking about best practices or common practices. But from the way to explain it or to demonstrate safety.

Ms. Yukimura: Thank you.

Mr. Phillipson: We would be open to sharing our best practices as well. The modern equipment has specific nozzles and computerized injections and things that are actually beyond my scope to even to explain to you.

But the thing is that we do not want to expose anybody, employees, plants, or materials to any places that pesticides are not supposed to be applied to. I mean, that is the ultimate goal. In the EPA's registering of those products, these things are looked at specifically.

Ms. Yukimura: But see, I guess I do not care whether they are best practices or whether they follow EPA's label. The main thing I care is that the drift is not occurring. So, that would be judged by complaints diminishing or by markers that Kirby mentioning that shows you if the drift occurs, something is dying at certain distances.

Mr. Phillipson: Right. I guess one could place some kind of a strip or a drift monitor to ensure that that...

Ms. Yukimura: In fact, Kirby when I visited your plant, you talked about a board that changes color when the pesticide drift.

Mr. Kestor: Yes, it is drop size indicators that the industry uses to test the sprayer droplet size and see if things are on target. But they also sense whether your spray it sprays are drifting, how far away from the boom. But that is another technology and just like using vegetative grasses as an indicator, I think the reason we are talking with that as a potential thing is because those could be kind of scientifically-based and provide some way to measure the occurrence of pesticide drift versus the biggest issue we have with the five hundred (500) foot is what science is that based off of. It is kind of more than that would be comfortable-feeling number.

Ms. Yukimura: I want to get to Cindy. Go first.

Ms. Goldstein: I think as others have mentioned, certainly there is a perception that there is drift and that this is occurring and we want to determine is that in fact occurring and we also, I would think, want to rely on how do we now develop these labels that already have buffers because some compounds do already have buffers? I think we would want to start with which compounds already do have buffer zones associated with them and look how that is arrived upon. We talked again about the vegetative plantings that would act as buffers and as I alluded to previously, I am aware of two (2) instances where we did, in fact, plant a vegetative barrier, where neighbors were not happy and asked us to take that down.

Ms. Yukimura: Yes, because of views. At some point health has to be priority over views.

Ms. Goldstein: Yes, and we put those there for a purpose but did get that reaction even when we explained why we planted them.

Chair Hooser: That is ten (10) minutes.

Ms. Yukimura: Thank you very much.

Chair Hooser: Any other members? Councilmember Nakamura.

Ms. Nakamura: Can I give my ten (10) minutes to Councilmember Yukimura?

Ms. Yukimura: I will not take the full, but I have three (3) more.

Chair Hooser: I want to accommodate everybody here.

Ms. Nakamura: I would not use my ten (10) minutes.

Chair Hooser: If Councilmember Kagawa wants to give her ten (10) minutes and Councilmember Rapozo wants to do it, she can talk as long as she wants to. Yes, I will accommodate you giving her your ten (10) minutes.

Mr. Rapozo: You can have mine too.

Ms. Yukimura: Thank you. I will not talk that much. This is very simplistic thinking, but that board that changes color with drift, can you put it on a residence or house as an indicator whether drift is coming?

Mr. Kestor: I do not know what the range is on those. I do not know how far away you can put because I think it just senses water. It turns color when water hits it.

Ms. Yukimura: That may not be adequate.

Mr. Kestor: It would probably pick up sprinklers or whatever, too.

Ms. Yukimura: I thought I would try. On disclosure of GMO which the Bill requires, Maria Gallo, who is the new Head of College of Tropical Agriculture and Human Resources (CTAHR), she put me onto the USDA website which shows every application for GMO certification. Maybe I need to ask the Committee Chair, or maybe you can help us, would that give us information about what GMOs are being planted?

Ms. Goldstein: That is part of the regulatory framework of the U.S. Department of Agriculture Biotech Regulatory Service. It does list by crop what the different genetic characteristics are but it does not give a lot of detail and it does not go into specific geographies. But it does give an indication of what each company is planting by crop and by the type of genetic characteristics, but not a lot of specific details.

Mr. Kestor: Yes, it is managed by Virginia Tech for USDA. It is public. It gets Crop County and also the phenotype is what they call it. It is the code. I will tell you why they were working on herbicide tolerant, disease resistant, agronomic enhance yield, or whatever so it has a code for the phenotype.

Ms. Goldstein: I did look at that recently to prepare for it today. In some cases it gives the gene that was inserted and I know that gets technical, but it indicates to others what the purpose was.

Ms. Yukimura: It gives that level of detail?

Ms. Goldstein: In some cases.

Ms. Yukimura: Maybe we could work with – oh, it will not be with Maria Gallo, with USDA to get more information that would not be trade secrets?

Ms. Goldstein: Hawai'i Department of Agriculture. The Hawai'i Department of Agriculture also has oversight and the ability to look through that information and provide more detail.

Ms. Yukimura: If, as part of this study that Council Vice Chair and I are proposing, if we wanted to explore and I am not sure this would be within the realm of the study or if we even – if a kid wanted to do a science project, would you cooperate with experimentation that shows how drift is going and what distance it is going or some kind of indicator of whether drift is happening?

Ms. Goldstein: I have helped students quite a bit with science fair projects and I think we would need to make sure that, in fact, this is allowable because there have some guidelines as to what students can do and what sort of compounds they can work with. We would need to double-check on something like that.

Ms. Yukimura: But you would be willing to help us – and I am thinking as part of education, too. But this whole thing about is drift occurring and how to work that?

Mr. Kestor: I think it would be great if there were high school students that wanted to come and see what we were doing on the farm and do something like that. That would be great.

Ms. Yukimura: I have been thinking about a pesticide hotline where people could call in and say I think this is happening and have some immediate response and maybe we work with the Department of Agriculture to get a faster response. Do you have any thoughts about that? I am sure that you would be worried that there would be – like we are learning with barking dogs sometimes, just irate neighbors.

Mr. Kestor: Are you talking about a hotline for like notification in advance or hotline that you call poison control hotline?

Ms. Yukimura: Like poison control. I am thinking of something that would have good documentation of cases and a resolution of them. Oh, this was not really a problem or there was a problem or that kind of thing. Will you folks can think about it since my time is up.

Chair Hooser: You have four (4) more minutes.

Mr. Rapozo: She was not going to use it all though.

Ms. Yukimura: Yes. You want to think about it?

Mr. Kestor: I am just thinking what the current process is. I think people call the Department of Agriculture or the first responders I think get called now and it is triggered from there, if there is an exposure event.

Ms. Yukimura: Well, according to Gary Gill, Deputy Director of Health this morning he said, if it is acute symptoms you call emergency or paramedics or whatever. But people will say and have said to me I went home and my eyes started smarting. I have this metallic taste in my mouth and I think it is the field right across me. This is the Waimea Valley report. I got from Kaumakani. I do not know where they call. I do not think they call any place. I have asked them to keep logs.

Mr. Phillipson: I think they call the Department of Health or the Department of Agriculture if they smell an odor because we get investigations from actually more from the Department of Agriculture than the Department of Health the local inspector will come out immediately and check records.

Ms. Yukimura: That reminds me, I do not know when they come out. My report is that they come out maybe a week or two (2) later. I do not know how soon they come out, but I will take responsibility for finding that out. But you folks wanted context for why we wanted to know post application disclosure and this is from the mouths of a Pediatrician in Waimea. He said, if I know there has been spraying to someone who comes into my office, then I might know to look for the symptoms, if I know what was sprayed or what he might have possibly been exposed to. That is why I asked the question, would you be willing to have the post application disclosure information available weekly so that there is timely way for people to check? That was my rationale for thinking that post disclosure would be important.

Mr. Phillipson: Or maybe even better then yet, to have the Pediatrician call us right away.

Ms. Yukimura: That is true.

Mr. Kestor: I think it is in 149 or somewhere. I think the Pediatricians are already obligated to call if there is a pesticide case coming in, are they not?

Ms. Yukimura: They may not know. I guess if they have a patient come in and it looks like symptoms then they would go to your log and say knowing where the patient lived, I presumed, was there any spraying going on in the neighborhood in the last week?

Ms. Goldstein: I believe Department of Health, if they do get a report that it is a health-related incident related to pesticide or suspected, that is something that the Department of Health would track. It may be good just to start there and determine if Department of Health has existing calls that come in and whether there is an understanding of that conduit.

Ms. Yukimura: I think that is it. Maybe one more question.

Chair Hooser: Sure.

Ms. Yukimura: Experimental pesticides are experimenting with the use of a registered pesticide right, or there is a pesticide that has not been registered according to...

Mr. Phillipson: According to EPA registration.

Chair Hooser: There is goes, sorry. There is the ten (10) minutes. Thank you very much.

Ms. Yukimura: Thank you.

Chair Hooser: We had twenty (20) minutes of additional questions, courtesy of Councilmember Nakamura and I would like to really move on to the public testimony. I think they have waited far, far too long. Do not tell me, did you have something also?

Mr. Furfaro: I have one question.

Chair Hooser: You are the Chair of the Council and one question, please. We have just gone too long.

Mr. Furfaro: I will bypass it then.

Chair Hooser: Thank you so much, Chair. I really appreciate it. That is the sign of leadership right there. Let us move on. Thank you gentlemen and lady. Let us move on to the public testimony portion if we could. If you could call the first speaker.

Mr. Furfaro: Excuse me. Anne made a request of me, she had to take care of an errand. She will be back.

Chair Hooser: Next speaker.

NED WHITLOCK: Councilmembers, Ned Whitlock, farmer Moloa'a. I hope I will not bore you today, but I thought I would go through some of the chemical labels that I went through twenty-two (22) of the Restricted Use Pesticides and each of these labels are used by three (3) or more of these five (5) companies, that are in question. We will start with DuPont Asana which is a synthetic pyrethroid and warning, may be fatal if swallowed. This pesticide is extremely toxic to fish and aquatic invertebrates. Do not apply directly to water or areas where surface water is present. This product is highly toxic to bees exposed to direct treatment or residues on blooming crops or weeds. Restricted entry interval is twelve (12) hours. If you go in there before twelve (12) hours make sure you are wearing – my words, sorry, cover overalls, chemical resistant gloves, shoes plus socks, and protective eyewear. Vegetative buffer strip. Construct and maintain a minimum ten (10) foot vegetative filter strip of grass or other permanent vegetation between the field edge and the down gradient of aquatic habits such as, but not limited to: lakes, reservoirs, rivers, permit streams, marshes, natural pond, estuaries, or commercial fishponds. That is a federal requirement. It is against the law not to have that if you have water down below where you are spraying. Buffer zone for ground application. Do not apply within twenty-five (25) feet of aquatic habitat such as, but not limited to: lakes, etcetera. Now, if you are going to do ultra-low volume aerial applications, which they probably do not do here, but it might be applicable to trade wind situations or cold air mountain inversions that we probably have on the West Side. Do not apply within four hundred fifty (450) feet of aquatic habitats, etcetera. Do not apply when the wind velocity exceeds fifteen miles per hour (15 mph). Force 3, this is another synthetic pyrethroid. It is used for planting roof or root worms and things like that. Restricted Use Pesticide due to toxicity deficient aquatic organisms.

Chair Hooser: You can summarize.

Mr. Whitlock: I just got to two (2) and I have ten (10). They go on similarly.

Chair Hooser: Thank you very much. We would ask everyone, I know people get passionate about the various speakers, but let us hold our applause until we are done and you leave the building, if you could. Thank you. Go ahead, sir.

RAY SONGTREE: Thank you for your serious.

Chair Hooser:

Can you introduce yourself for the record.

Mr. Songtree: Ray Songtree. There is no regulatory agencies in the United States. That is easy proven by doing a search on the internet and type in "industry revolving door" then type in "USDA," "FDA," "EPA," or "FCC" and you will see that the industry people and regulatory people switch jobs on a regular basis. It has all been compromised and you have to understand that. Now, the Department of Health, same story. If you study the Swine Flu pandemic in 2009, it was created. There was never eight hundred (800) cases in Mexico City. The CDC made up the numbers of Swine Flu cases. They went from four (4) to forty (40) to four hundred (400) to four thousand (4,000) to forty thousand (40,000) every eight (8) days and they stop counting because they could have never justified four hundred thousand (400,000) or four million (4,000,000), so they stop counting. President Obama declared an emergency and Governor Lingle declared an emergency. Governor Lingle said "the National Guard is going to be vaccinating everyone" and the whole thing fizzled. The CDC was totally part of that. They cannot be trusted. You cannot trust the World Health Organization and you cannot trust the Health Department. So, forget regulation. You folks have to take care of it right now. The top is corrupt. The bottom is what is going to save us and is that you. Larry Dill, I have history with Larry Dill, but I want to discuss there is a controversial cell tower being proposed for Kilauea on ground where his children go to school.

Chair Hooser:
appreciate it.

If you could focus on the Bill, I would

Mr. Songtree: We are talking about regulation by the Department of Public Works. I do not think he is qualified. You need a watchdog. You need somebody who is fierce, you need someone who believes in the precautionary principle. Beekeepers do not have to be licensed, Jay. Anyone who has bees should be informed so they do not lose their bees. The property buffer thing, the buffer is five hundred (500) feet away from any property line unless the occupant of that property gives permission for it not to be there. You do not have to define school all of that. Any property line should be respected, in my opinion. My questions are eighteen (18) tons of Restricted Use Pesticides are being used a year.

Chair Hooser:

Summarize, please.

Mr. Songtree: How persistent are they? If I want to buy that land and have a certified organic farm, how many centuries do I have to wait? Thank you very much.

Chair Hooser:

Thank you very much. Next speaker please.

Chair Hooser: Thank you. I want to ask all the speakers to please refrain from referring to Councilmembers directly or asking questions or commenting. Just address your comments to the body and to myself and focus on the issues at hand, please. Thank you.

JENNIFER RUGGLES:

Aloha. My name is Jennifer Ruggles.

Chair Hooser:

Could you speak up please?

Ms. Ruggles: *Aloha.* My name is Jennifer Ruggles. I was born on the Big Island. I am in support of Bill No. 2491. I just wanted to cover a few things that concerned me from this Committee Meeting and last Committee

Meeting. One is about the moratorium, if they have no plans for expansion or expansion on acreage, then they really should not have a problem with restrictions on expanding their acreage. This is also coming from entities that said that they closed the field on Waimea at Waimea School. Yet court ordered reports demonstrate that they have sprayed two hundred (200) times since then. The second thing is just Act 14A, our State pesticide law, it does not have an express or implied preemption that demonstrates anything exclusive or uniform and does not take away County authority. It does not preempt the Counties. It does not reference preemption and there is no strong argument that it says it does. Regarding the FIFRA, the Federal Insecticide, Fungicide and Rodenticide Act, that also has no preemption. It does not have anything in it. It does not have a comprehensive statutory scheme that prevents States or Counties from passing Ordinances like this. In fact, there was a case in Wisconsin where the Supreme Court ruled that Counties actually have the power to regulate aerial pesticide use on private land. The third thing is just other Counties that have regulated pesticides, Long Island in New York, Tulare in California restricts certain Restricted Use Pesticides. Yuba County creates buffer zones and restricts certain types of applications and certain types of Restricted Use Pesticides. Other Counties that even have outright bans on GMO and this Bill does not even go that far. These outright bans have not been overturned and they have been successful. Those are Boulder, Colorado; San Juan County, Washington; Montville, Maine; Mendocino, Marine, and Santa Cruz has a moratorium on GMOs. The majority of agricultural Counties in California ban Restricted Use Pesticides. That would be Trinity County and Arcata City. That is all, thank you.

Ms. Yukimura:

Ask for a copy of the testimony, please.

Chair Hooser:
copy of your testimony, please?

Thank you very much. Yes, can we get a

Ms. Ruggles:

Yes.

Chair Hooser:

Thank you. Next speaker, please.

CAROLINE COX: Thank you all for this opportunity. I really appreciate it. My name is Carolyn Cox and I am the Research Director at the Center for Environmental Health in Oakland, California. My grandfather spent his working life on Kaua'i. He is the Engineer who built the breakwater at Port Allen. My father grew up on the McBryde Sugar Plantation. My grandparents retired to Hanalei, so I feel a real connection to Kaua'i and am really grateful to be here. I submitted really detailed testimony about toxicity of pesticides both via E-mail and hard copy this morning. I am not going to bore you with that again. I hope you take a look at it. I did want to just talk briefly about some things that I heard today. One was the question about Restricted Use Pesticides and why are we concerned about General Use Pesticides, are the restricted use not the problem? Just to be clear, the definition of Restricted Use Pesticides for the most part, is pesticides that are acutely toxic. You can have pesticides with long-term health effects that are not classified as Restricted Use Pesticides. Next, I want to talk about what you call disclosure, which in California we call "Pesticide Use Reporting," it is kind of the same thing. California has had a Pesticide Use Reporting law that began in 1990. As you know, California has the biggest agricultural economy in the Country. Agriculture is still very successful this California. It has not been a problem and with all due respect to the agricultural folks who testified today with the exception of Kaua'i Coffee, those other companies are doing agricultural business in California and doing it successfully. I think that disclosure use reporting is not a problem. With buffer zones, California law allows

Counties to set up buffer zones around schools. All of the major agricultural Counties in California have buffer zones around schools. Agricultural has not gone out of business in any of those Counties. It has been a successful way of protecting children from pesticides and as I said, if they can do it in California, they can do it here. The last thing I wanted to toss out, there was some discussion permitting. So, I just wanted to explain how that works in California. It has been very successful. California Agricultural Commissioner issues permits for applications of Restricted Use Pesticides not the general ones. If there is some kind of a need for a compromise on the permitting portions of the Bill, that is something that you could think about.

Chair Hooser:
Councilmember Bynum.

Thank you very much. Question from

Mr. Bynum: You said County Commissioner of Agriculture, California Counties have a County Commissioner of Agriculture?

Ms. Cox: Every County in California has a County Agricultural Commissioner whose job it is to enforce the rules about pesticide use and a lot of other agricultural related things in each County.

Mr. Bynum: One other question, to your knowledge, has anyone ever studied the impacts of the research practices that are occurring here with high volumes and high frequencies of spraying? I mean my view is that all of these regulations assume production agriculture. I am looking for somebody to tell me who has studied this. These practices that are different from the production that we heard today.

Ms. Cox: Are you saying that small scale agriculture different than the big?

Mr. Bynum: No, what I am saying that we have testimony that the research practices involve spraying pesticides on average of two hundred forty (240) times a year on one (1) field and they are spraying quantities much higher than production agriculture is what this data shows. Has anybody studied that? The labels assume you will not spray every day, right?

Ms. Cox: In my experience in California, the pesticide use reporting data, the actual amounts of pesticides have been used for a lot of health studies. So, that would be up to and including whatever is allowed by the label. If it is more than that, it would not have been included in those kind of studies. Does that make sense?

Mr. Bynum: If anybody can answer this question, anywhere, please, tell me because the label seems to assume and these regulations, that this is for production agriculture. You grew up in California. I spent two (2) summers in the Los Banos in the Central Valley. That is all production agriculture. They spray lots of chemicals, but they do not spray frequently, right?

Ms. Cox: Right.

Mr. Bynum: Once you spray a pesticide, you expect that it is going to work as least for a while, that you do not have to spray pesticides again in three (3) days. I believe that the research practices that are happening here are different than production agricultural practices.

Ms. Cox: I am sure you are absolutely right.

Mr. Bynum: I want to know if anybody studied the research practices where these pesticides being applied frequently and at high levels. That is not happening in California on those production fields.

Ms. Cox: I think one of the reasons why having some ability to regulate pesticide use at the County level so that it can take into account these local condition and local circumstances...

Mr. Bynum: Thank you very much.

Ms. Cox: It is really, really important.

Mr. Bynum: Thank you.

Ms. Cox: That it is not possible to look at it as a one size fits all kind of thing.

Chair Hooser: Other questions? Councilmember Yukimura.
Wait, one more question.

Ms. Yukimura: In the use reporting requirement they cover both restricted and General Use Pesticides?

Ms. Cox: Yes, it covers all agricultural pesticide use and a few other things in addition to agricultural pesticide use. But we will just focus on that.

Ms. Yukimura: Was this done by County legislation or State legislation?

Ms. Cox: The law in California is a State law.

Ms. Yukimura: It is a State law?

Ms. Cox: Yes.

Ms. Yukimura: Thank you

Chair Hooser: If you could restate your credentials, for one of a better word. I missed that when you introduced yourself.

Ms. Cox: I am the Research Director at the Center for Environmental Health in Oakland, California.

Chair Hooser: Thank you. Other questions? Council Chair Furfaro.

Mr. Furfaro: Yes, could you possibly send us a scope-of-work and qualifications for a County Agriculture Commissioner in California?

Ms. Cox: Sure. I would be happy to get that for you and E-mail it to the Council.

Mr. Furfaro: I will have someone from my staff contact you. Thank you. Thank you, Mr. Hooser.

Chair Hooser: Thank you. Thank you very much, Ms. Cox. While Ellyson Williams comes up to the microphone, to those waiting outside, if you wish to testify this afternoon or this evening, you must fill out a half-sheet size speaker testimony form located at the downstairs table inside. For those who already submitted a form, please listen closely for your name. Good evening.

ELLYSON WILLIAMS: *Aloha ka ko*, fellow residents and County Councilmembers of Kaua'i. My name is Ellyson Ululani Maince-Williams. I am a resident of Waimea and a life-long Kauaian. Unfortunately, my testimony from the hearing of July 31, 2013 was lost. I am here to testify today and voice my concerns. Two percent (2%) of the population feeds the rest of the world. Bill No. 2491 is an effort to bully Kaua'i to fit into the ideals of a perfect utopia. Yes, we want to feed our families here, but what about the rest of the world. I want to feed them too. We must utilize all of the tools at our disposal to accomplish this. My husband and I grow *taro* on ten (10) acres in Waimea Valley. I am also employed at DuPont Pioneer. We ship out eight hundred (800) pounds to Aloha Poi Factory on Maui every Thursday. We have met the proprietors of Aloha Poi Factory once in over fifteen (15) years that we have done business. My point is we need to look outside of just our communities and not just care about let us feed Kaua'i. Let us feed the world and I am here to offer up my services as a resident of Waimea Valley, listening to discussions today that we have had, to say that I am willing to help as a community leader and also, as a *taro* farmer because I have personally started the farm in 1999 and have been growing in Waimea Valley since 1994. I have not seen any random die offs of my *taro* crop. I have not seen any random die offs of my bananas. As a matter of fact, my farm is flourishing today. This is what I am here to say is, let us work together. Get rid of all of the myths because I work on both sides of the fence. I love my *taro* patch. If you looked at my toes they are dirty, but guess what, I also work in an industry that cherishes my *mana'o* and my thoughts. I recently graduated last week Monday with a Bachelor of Science degree from Oregon University in Agricultural Sciences. Where do you propose I will be utilizing this degree? I hope that it will be on Kaua'i, helping to move us forward and embracing each other's ideals and everybody's views because for me, it is not one way, it is everybody's way. We need to work together. That is basically my testimony is, it is not one side or the other side. It is everybody's side and we need to focus on the facts at hand. If you would like to come out and see my farm and see what is done in ten (10) acres in Waimea Valley, then you are more than welcomed. *Mahalo*.

Chair Hooser: Thank you very much for you testimony.

Mr. Rapozo: I have a question.

Chair Hooser: You have a question from Councilmember Rapozo.

Ms. Williams: Sorry.

Mr. Rapozo: That is alright. Who did you cheer for, Oregon State University and Hawai'i?

Mr. Williams: That was painful. I was studying for finals, sir.

Mr. Rapozo:
in Smokey Valley, Menehune Road?

My real question is you have your *taro* patch

Ms. Williams:

It is right below Panini's Cliff.

Mr. Rapozo:

And you have seen no...

Ms. Williams: I will tell you the honest truth. Before I even worked for Pioneer, I just started working for Pioneer four and a half (4 ½) years ago, 2009. The reason that I started working there was because we had a massive rain in December 2008. It flooded out the whole farm and I am surrounded by neighbors. Flooded out the whole farm and I was like, what am I going to do? I love agriculture, but the farm was a loss. I got some help from the farm service, but that was just to clean up, but in the meantime, what was I going to do with my skills? I have been growing *taro*, I know agriculture. I went up the hill and applied for a job at Pioneer and they saw my value. I am transferring my knowledge from there, but now have I have two. Some people wonder how I manage it, but I tell you what, that is what I do. I love it.

Mr. Rapozo:

Thank you.

Ms. Williams:

Thank you.

Mr. Rapozo:
that I can take a look.

I will definitely try to get up to your patch so

Chair Hooser:

Councilmember Kagawa.

Mr. Kagawa: Yes, since you work for Pioneer, I had mentioned myself and Councilmember Rapozo went to check out the Aanas and (inaudible). When we looked up, we saw the black netting right above and then we saw a bunch of big, dead looking trees. But over lunch somebody, I do not know, who texted me a picture of the inside of the black fence and there is nice green pine trees, which you cannot see from below because they are not tall enough yet. There is a nice line of – looks like pine trees that run along the black netting. I mean, did I get a picture of just a short area or is that?

Ms. Williams: The tree line runs of duration of the dust fence. As a matter of fact, in addition to that, we are not allowed to drive along that dust fence so, to minimize dust to the community. We have a certain area of the farm now, at the very top that is just a cover crop. It was part of a response that we do not farm there. We have a speed limit of five miles per hour (5 mph) on the farm and we also do not drive along the dust fence along the farm. The tree line extends the extent of the dust fence.

Mr. Kagawa: I guess you have been there four and a half (4 ½) years. The reason for adding the pine trees besides the netting, was it to try and work with the community?

Ms. Williams: I am not really sure about that, but I do know that we worked with the Natural Resource Conservation Service on ways that we could help with conservation and come up with some sort of remedies. But I am not sure of the exact reason why.

Mr. Kagawa: I think the people of the valley are saying that, and you live there so you must hear it from some of them. They said that the

netting is not even close to being high enough, that I guess when the winds blow and they spray at night they feel like the spray is going way over. Do you think that Pioneer maybe can create a bigger buffer?

Ms. Williams: I suppose it could be possible. I just personally would like to say that it may sound like oh, she works for Pioneer. But I will tell you honest truth, is I have lived in Waimea Valley since 1990. I have never had any problems. I mean, I remember the black snow from the cane fields.

Mr. Kagawa: I am done.

Ms. Williams: Thank you.

Chair Hooser: Another question.

Mr. Furfaro: You said we misplaced your testimony?

Ms. Williams: Well, it was lost on the public television. My testimony was not...

Mr. Furfaro: But we do have your record here?

Ms. Williams: Yes, I E-mailed my testimony.

Mr. Furfaro: Thank you. Thank you, Mr. Hooser.

Chair Hooser: Thank you very much. Next speaker.

LARRY SCHNEIDER: Hi, my name is Larry Schneider and wow, the last twenty-four (24) hours have been high highs and it has been an interesting journey. I had data that I was going to present but listening today and walking with thousands and then hearing that one woman right before me, there are a lot of inspiring people and there are answers within the whole system. One of the things that is evident listening today is it is just a matter of conversation and intellectual honest. It is incredibly sad to think that is not present and we can do something about that. The FDA requires voluntary labeling. It is not listened to. I know that Councilmembers have asked for data. The EPA asked for disclosures. It does not happen. You have to go to the United States Department of Agriculture to find out what the genetic modifications are. Experimental Use Permits would show it if it was not redacted. There are a lot of things. But then you hear stories like the last woman and marching. There is a level of insanity by the gamesmanship that is being played. I am going to throw out testimony in terms of data and just talk a little bit about thoughts. I think that the people that work at these plants are – I have met them. I have been out to the plants. They are tremendous people and what I personally find objection with is at a high corporate level, the layers of secrecy that are built in there and I think it is purposeful. You asked for information, they do not give it. It is purposeful. They are well-coached. The difference between what was said before lunch and after they had the chance to talk to corporate counsel, I am sure at, lunch. They came back and it was a *cumbayah* moment where everyone is joining hands and offering to work together and it does not happen. It really does not happen. Part of why it does not happen is I think it is built into the corporate mechanism, the corporate philosophy. If you are going to create a company that is based in high productivity, high profit and mitigate risks, you would change the patents every two (2) or three (3) years. You would upgrade, you tweak a gene, you progress it, you would make the past genes obsolete, and you would have a progressive product line that keeps coming out of the pipeline. One

thing it does is it keeps you competitive in the marketplace. You would also keep the information secret. One of the big things that they parrot and their people parrot and it comes from the corporate higher ups is there is a lack of data. It is impossible to gather data when the numbers are so small. Do a cancer study in Waimea. The numbers are not great enough to get it. You have to do meta-analysis. We talked about this. It is purposeful. This is purposeful. It is built into the design making patent obsolete. It requires local legislation.

Chair Hooser: Thank you very much for your testimony. I appreciate your participation and the thought. Any questions from members? If not, thank you.

Mr. Schneider: I have an outline of what I think the corporate policy is, purposefully. They purposely go through patent obsolescence to avoid data collection.

Chair Hooser: Thank you, Mr. Schneider. Anne Punohu, I believe...

Ms. Caldeira: No.

Chair Hooser: Was she not the next speaker?

Ms. Caldeira: No, it is Nomi Carmona, followed by Anne Punohu.

Chair Hooser: Nomi.

NOMI CARMONA: Aloha, Chair, and Councilmembers. Thank you so much for having me. My name is Nomi Carmona. I represent the Honolulu based non-profit called Babes Against Biotech. We handle Statewide GMO issues in the legislature. I spend four (4) or five (5) days a week in the Capitol studying what is going on here and tracking these GMO lobbyists and the companies and their actions. I just completed the 2013 financial analysis of campaign funds. I am trying to give you a framework that helps you understand why this is your local *kuleana* because I deal with the State every day. There is about half a million dollars of money from GMO companies and lobbyists in their campaign fund. So, that is two hundred thousand dollars (\$200,000) in the Senate, two hundred twelve thousand dollars (\$212,000) in the House of Representative, and twenty thousand nine hundred dollars (\$20,900) in the Governors. Now, if you add in the two (2) wives and the daughter of just two (2) top GMO lobbyist, those figures nearly double in the Governor's campaign fund alone. Russell Kokubun of the Department of Agriculture has thousands of dollars of GMO money in his campaign funds from prior elections. Unfortunately, I do not trust the legitimacy of the State because I have been working with State for the last year plus and I see how they operate. It is a closed door. There are some that take seven hundred dollars (\$700). There are some that take sixteen thousand dollars (\$16,000). Now, this Council's election funds are still clean but you are our last line of defense. As it is been testified to before, the Head of the FDA is a former Vice President and top lobbyist for Monsanto. The same thing is going on in the USDA, EPA, and our own State government. We are looking at four hundred thirty-four thousand dollars (\$434,000) not including the wives and not including the Councils. This is coming down to you. We need you to protect us. I know you have not taken any GMO money, so I still have hope and faith. My own Council in Honolulu has taken over forty thousand dollars (\$40,000). There is no budging there. We have no help, so that why I am here helping the other islands. I want you to understand that our

State will not protect us. They have not been protecting us and the higher levels will not protect us. That is why we are here. What other industry has thousands of people marching against them? What other industry has two million (2,000,000) people worldwide march at the same time? These are serious problems. These are convicted poisoners in many, many Countries. We need to learn from their histories. We need to look at their histories and look every single one of the companies represented in this room right now has been convicted of chemical poisoning. The onus is on you. If you do nothing, then you are leaving your own people to be sick and I know that is not your intention. You want to please everyone, but is it right to make money poisoning other families to feed your own? While it may not be the intention of all the biotech employees, this is what is happening. If we have the regulations in place that 149 and it is not being taken care of, it is up to you. Thank you.

Chair Hooser:
Are there any questions?

Thank you very much for your testimony.

Mr. Rapozo:

I have a question.

Chair Hooser:

Councilmember Rapozo has a question.

Mr. Rapozo:
audit of the campaign spending?

Thank you for being here today. You did an

Ms. Carmona:
Representatives, and the State Senate. I have yet to do the up-to-date Honolulu Council which is the only one with GMO money in it and I have yet to do the National leadership.

Mr. Rapozo:

Did you do this Council?

Ms. Carmona:

I did this Council.

Mr. Rapozo:

Did you do mine?

Ms. Carmona:

I did yours.

Mr. Rapozo:
dollars (\$8,000) from the companies?

I read in Facebook that I got eight thousand

Ms. Carmona:
that is for sure. When I looked through your campaign funds, I found one two hundred (\$200) donation from DuPont back in 2008, that is nothing. It is not evidence to us. That is the only thing that I found in the entire Council. I am not looking at someone who took two hundred dollars (\$200) back in 2008. I am looking at guys like Joe Souki, who is the Speaker of the House taking sixteen thousand eight hundred dollars (16,800).

Mr. Rapozo:

Thank you.

Ms. Carmona:

My pleasure.

Chair Hooser:

Thank you.

ANNE PUNOHU:
Anne Punohu. I have a few clear points to make today. I liked both the

Wow, and on that note. *Aloha*, my name is

amendments, all the amendments that I heard, however I think it is too much for the public to swallow at one time. However, I always had this statement when I speak, and I say I do not want to see any Bill amended to death or watered down. Whatever amendments you have is connected to this Bill. A law is stronger than had a Resolution even though I understand the safeguard issue. The State is not going to take care of us. We need to be leaders and not followers. The State needs to see that if they do not do their jobs, the County will do it for them. This is about a regional issue and home rule. This not about red shirts and blue shirts. I suggested purple shirts or no shirts the next time we meet. But however, the handsome guys would not go for the no shirts today. I do not know why. I tried. I understand all of your position. However, my position is, I was there at that march. I felt fabulous. You have to understand that the majority of the people on Kaua'i want this Bill. We no longer trust the State, the Feds, or anybody to take care of us. We trust ourselves to take care of us. You are us. We expect these folks to buck up to the table and do what they need to do to do business on the island or they can ship out. If these are the terms that they are doing business on our island, they are not in a really good place to negotiate and I will tell you why, do not be afraid of any threats of lawsuits. We have had had lots of threats of lawsuits. We had lots of people come here and try to intimidate us in that way. We are Kaua'i. We do not bend to threats. We do not bend to lawsuits. We do not bend to anybody. We make our own decisions on this island and we stand strong and we stand strong together. My support is for everything single worker behind me in a blue shirt. I love them to death. I had a fabulous time with them today. They are a great bunch of people and I just love them. However, their bosses, I am not sure I have too much love for them. But I do not feel that Kaua'i Coffee. I do not feel that Kaua'i Coffee is in the same league with the GMO and the other individuals mentioned. They produce food. They have been a good neighbor. When I had issues with them, they have listened to us and you heard them today. They were willing to capitulate when the rest of them have no intention of capitulating. In fact, they were silent which I found especially rude to Kaua'i people. We do not like that. Those are my words today. I hope you hear them because they are the words of a lot of other people out there. Love and *aloha* to everyone in this room. *Aloha*.

Chair Hooser: Thank you, Anne. Any questions? Thank you for your testimony. Next speaker.

Mr. Furfaro: Excuse me, Mr. Hooser.

Chair Hooser: I am sorry.

Mr. Furfaro: Housekeeping item for you. I have no question for the speaker. Is it your intention for our staff to have a dinner break?

Chair Hooser: I believe we have to have a dinner break.

Mr. Furfaro: Yes, we have to.

Chair Hooser: Even if we did not have to have one, I would want them got to have one to cover myself on that one. What is...

Mr. Furfaro: Typically, we should take a dinner break at 6:30 p.m. by our contract for our staff. It can be forty-five (45) minutes if we so desire, but it should be an hour.

Chair Hooser: Thank you for the reminder. We will go to a dinner break per the contract with the staff at 6:30 p.m. then. Thank you.

BETTY CAROL DUDNEY: *Aloha*, my name is Betty Carol Dudney and I am a retired Medical Technologist. I came here to retire. I am also a registered voter. I am with last two (2) speakers very much in agreement with what they said and can confirm that is what I know, too. Although I am concerned about the pesticide use and it is a big problem, my primary concern is the GMOs seeds. That is because they are sterile and they are genetically programmed to be sterile so that they have to be bought each year. Not only that, they affect our normal seeds, our natural seeds and that is the real problem we have here. These seeds have to be used with pesticides where it can completely destroy our organic farming plus it makes us economic slaves to these large corporations. I just hope you do what you can for us and for yourself and for our children. *Mahalo*.

Chair Hooser: Thank you so much for your testimony. I think we have a question for you from Councilmember Yukimura.

Ms. Yukimura: Thank you. Betty, how do you see GMO companies completely destroying organic farming?

Ms. Dudney: Because our regular seed, our normal seed are affected by these seeds and they do spread. I understand that there has been some lawsuits by Monsanto for the seeds being in other crops because they go by air or however they get there. I am sorry, something in my throat. They do affect our normal seeds. So, that they become sterile and cannot be used.

Ms. Yukimura: But there must be seed suppliers of regular organic for farmers?

Ms. Dudney: Oh, there are, but these large corporations are using these sterile GMO seeds and you eventually we will have no normal, natural seeds.

Ms. Yukimura: Thank you.

Chair Hooser: Thank you very much for your testimony. Next testifier, please.

WALTER RITTE: *Aloha* my name is Walter Ritte. I am a homesteader on Moloka'i on farmland and I live next to the Monsanto fields. I watch them every day and we have tremendous dust problems. My grandson had to go to medical emergency because of all of this. I have a direct relationship with what is happening on Kaua'i because if we can solve the problem here, we can solve it on Moloka'i. We have no Council people on Moloka'i to talk to and you folks, I do not know normally say this, but I want to congratulate you folks. You are proving that Home Rule is important and that County Councils are important because we have been going to the State and there is no way we can get to the Federal level. The State is pretty much sewed up against us doing anything there. So, you are the last stop for us and I really like the idea of talking about the corporation, getting together and working it out at the grassroots level, and that cannot happen until there is trust. That is what they said and that is what we are saying. There is absolutely no trust right now. You folks have got good leadership, you have a great Bill. The community is doing their job. Apathy at the State level, huge. Nobody is voting even. We have one of the worst voting records. Huge. This County, no problem with apathy on this issue. You folks got the community that is participating with you. All we need now is for you folks to follow through and the homework you folks are doing, totally impressive. You folks are doing stuff that State folks would never do. We are off to a good start and backup your community.

They are the consumers. They are not the farmers, but they are the consumers and the consumers are always right. That is 101 Merchandising that you learn in school. The consumers are actually participating with you guys. The EIS on Moloka'i that has kept us Moloka'i for the past thirty (30) years. We taught our community how to participate in the EIS. It has been tremendously effective for us to protect our shorelines, our subsistence economy, which is our second economy which is now being threatened by Monsanto. The Hawaiian culture has not really participated so far in the issue. They are coming in, but coming in slowly. But the rest of the community are participating. Our culture on Moloka'i, tremendous impact. It is impacting our subsistence economy. Our reefs, our mountains, our hunting, everything is being negatively impacted. We have tremendous problems and we have nobody to talk to. That is why I traveled all the way over here and I am encouraging you folks to do the right thing and you cannot have trust unless something substantial is put on table. Words is not good. They have to come out and support this Bill. These people have to come out and support this Bill. This Bill is for the people. Thank you very much.

Chair Hooser: I will have to ask people not to applaud. I will have to ask you again not to applaud, if possible. This follows some decorum. Councilmember Rapozo.

Mr. Rapozo: I have one question, Mr. Ritte, thank you for coming all the way from Moloka'i. You mentioned that the EIS has been very successful, the EIS process on Moloka'i, can you expand a little bit on that?

Mr. Ritte: This island has plenty of water. With Moloka'i, we fight over water constantly. So, without getting information on the water, everybody is bull shitting each other about the water. The EIS process allows us to demand information and we are going through the process and the process allows us to question them. It allows us to go ask for more information and all of that kind of stuff and then we come in. We do our homework as a community and we come inside. We provide information in the process also and that has really been helpful for all kinds of projects on Moloka'i.

Mr. Rapozo: Generally speaking, the EIS process works for you folks whether it is a development, whether it is a seed company and so forth, but you are speaking in general terms?

Mr. Ritte: Yes, because we have no government.

Mr. Rapozo: Right.

Mr. Ritte: The EIS has become our mainstay to do that.

Mr. Rapozo: Thank you

Mr. Ritte: By the way the 149A, I would not trust the State to do anything even though they have the right to do it.

Chair Hooser: Thank you. Any other questions? Thank you very much. Next speaker.

Ms. Caldeira: K. Hoku Cabebe, followed by Veronica Bajwa.

Chair Hooser:
dinner break.

This will be the last speaker before we take a

K. HOKU CABEBE: *Aloha, mahalo* for hearing me out. My name is Hoku Cabebe. I am a community member and mother and concerned for the *keiki* surrounded by these fields. I came out and testified last time and I have been waiving signs and going house-to-house to figure this out on my own because I too, do not have trust in the State to take care of it because they knew about this already and if they were going to take care of it, they would have taken care of it yesterday because *keiki* are dropping already. Too late. This is too late. Like the conversation that we had this morning, they snuck in and we did not know anything. Now we know and now we have to figure this out. But we are figuring it out a little but too late. Like I said, we have *keiki* that are getting sick. We do not have to do a five hundred thousand dollars (\$500,000) study. The Hawaiian people, we already know this. Our neighbors, we are looking at each other, we watching each other drop. We do not have to do any studies. We have to make sure that we are protecting our people and the only way we will do this is to pass the Bill and pass it yesterday. Not only pass the Bill, but the Administration, like you said, needs to make sure it is followed through, not like the TVRs which got all messed up. We have *braddahs* going to jail right now because there is too much people on our beaches. We cannot fish, we cannot feed our families, we cannot go into the mountains, and that is causing social and not just economic problems, but social problems. You folks want to talk economics. These seed companies, they are moving all over the island. Pretty soon all the bus boys, all of the hotel workers, and anybody making probably less than fifteen dollars (\$15), sixteen dollars (\$16) an hour, their only job on this island, is going to be spraying poisons, being pollinators like my cousin calling me up and telling me that I have a job for Syngenta. I am a Pollinator. All I have to do is go walk across the street and hold the sign. But that might be small-town talk, but this is a small town so you have to solve this problem now. We cannot wait one hundred eighty (180) days. We cannot wait thirty (30) days. We have to go tomorrow because my kid goes to school tomorrow. Do you know what I mean? I do not sleep, I do not have voice because my babies stay in school and I do not know what is going on next door. I can hear tractors. I see the kids in the road getting headaches and not feeling well. My daughter wakes up in the morning and her throat is itchy. I am praying to God that we are wrong and that is not why her throat is itchy. But I want to know. I want to know what Dr. Carolan thinks because he has been seeing my daughter since she was three (3) years old. I have been taking her in. I know it is not asthma because I see dad and his asthma is different. What is it? Do you know what I mean? What day she was absent from school? What day she went to Dr. Carolan? What did Dr. Carolan say and what did they spray next door that day? That is what I want to know. Thank you.

Chair Hooser: Thank you.

Ms. Yukimura: Wait.

Chair Hooser: Thank you for your testimony.

Ms. Yukimura: Where do you live?

Ms. Cabebe: I am from Wainiha, that is where I grew up. I grew up right between the double bridges and our *'ohana o'opu* farm is gone. We do not have *o'opu*. I used to go when I was twelve (12) years old we got electricity up that road. Before that, my grandma folks went in the river, breakfast, lunch and dinner, and go get us our *mea'ai*. The *kalo* farm right above us is gone, not because

Syngenta companies, but the because of private people who took the water and we no longer get our *kalo* farms and we no longer get our *o'opu*. So, Auntie, I really happy you still have your *kalo* farm. But you better watch out because in five (5) years, where your water comes from, you better go check because right now Lāwa'i Valley, four (4) rivers are not getting to the ocean. Where is that water? I used to go Kōke'e and swim when I was a baby. Where is that water?

Ms. Yukimura: Do you still live in Wainiha?

Ms. Cabebe: I still have family in Wainiha. I do not live there. I raised my daughter on my own.

Ms. Yukimura: Good for you, but where do you live?

Ms. Cabebe: Not good for me, I need her dad. He is where because he cannot go and hunt. That is not good for me.

Ms. Yukimura: I am sorry, I did not mean that.

Ms. Cabebe: I do not even say where I am from because I am battling huge companies. Do you know what I mean? This is real. These chemical people are real. These chemical companies are real. Just because they are in our backyard and we want to act like they are not, they are. Please, thank you. I just want to make comments.

Chair Hooser: Thank you. Councilmember Nakamura, did you have a question? We have one more question, if you are able.

Ms. Cabebe: *Kala mai.*

Chair Hooser: No, no need to be sorry. Councilmember.

Ms. Nakamura: My question is where does your child go to school?

Ms. Cabebe: She goes to Kawaikini. She went to Punana Leo as well. I have driven thirty (30) miles, like I said, the last testimony to get my daughter to go to school so that she can be raised in the same loving Hawaiian environment that I was. Like I said the last time, these same companies that overthrew our Queen, forbid us from speaking our language, and you want us to trust them to take care of us? Guess where the fields are? Right next to our Hawaiian language immersion schools. Our population of four hundred sixty-five thousand (465,000), that went down to sixty-five thousand (65,000). When they are done with us, it is going to be six thousand (6,000). They want it zero (0) so nobody care about this land like I care about this land. Do you know what I mean?

Ms. Nakamura: Thank you very much.

Ms. Cabebe: You folks know. I know you folks know. Please help us. Thank you.

Chair Hooser: Thank you so much. We are going to take a dinner break and we will be back in one (1) hour.

There being no objections, the Committee recessed at 6:33 p.m.

There being no objections, the Committee reconvened at 7:33 p.m., and proceeded as follows:

Chair Hooser: I hope everybody enjoyed their dinner and continues with the public testimony. Would you please call the next speaker?

Ms. Caldeira: Veronica Bajwa, followed by Wayne Jacintho.

Chair Hooser: Could you say that again, please?

Ms. Caldeira: Veronica Bajwa, followed by Wayne Jacintho.

Chair Hooser: Wayne, are you here? You are up. I do not see Veronica here. You are next. We all get a little silly here after 7:30 p.m. or so.

WAYNE JACINTHO: My name is Wayne Jacintho and what a week to quit sniffing glue. I am in favor of the Bill. I hope you pass it, even if you have to amend certain parts of it, especially the buffer zones. I think we can go with the five hundred (500) feet around schools, hospitals, towns, and the highways, wiggle room and the inter-boundaries, canals, ditches, wiggle room. The thing I want to talk about is the issue of impracticality of informing the public. I can go on Facebook. I can go on Huffington Post. I can go on photography sites. I can have information sent to me just by signing up to have the information sent to me when the information happens. These companies, I am presuming for every plot, for every sub-plot, for every small tiny little field, presumably, if they are scientific farmers, they are marked by Global Positioning System (GPS). The decision will come down at any minute of any given day to go spray that field and to spray with what? I have seen the spreadsheets from Pioneer, very detailed stuff. The minute a decision is made by somebody that that field, that plot, that subplot, is going to be sprayed a website could be set up, whether it is by the County or these folks. A website can be setup, they press a button on their computer, the information is instantly uploaded to the website, and anybody in the island or the world that wants to see can see where they are spraying and hopefully they are going to tell us what they are spraying because we need to know what is in the air that we breathe and the water that we fish in and the water that we swim in. I think a high school computer nerd could design a website that could provide us with the information that they are so reluctant to provide. Furthermore, we can go ahead and on a Google map of Kaua'i, where that plot is, when they are going to go spray, one little red dot can come on. That dot can stay on until it is safe to go back to that field. Imagine from Polihale to Waimea, we have all of these twinkling red dots and from Waimea to Hanapēpē Valley, all of these red dots. Puhi by the dog pound, across the street from Kukui Grove, by the airport, maybe behind Kalepa Ridge, maybe all the way to Keālia, and who knows, maybe they are going to take over the North Shore too. Just imagine, Kaua'i, you look at it and there are all of these red dots. Kaua'i has the measles. But we know. Anyway, thank you for your time.

Chair Hooser: Thank you very much for your testimony, Wayne. Next speaker.

COLLIN DANA: Aloha, my name is Collin Dana. A couple of issues I want to bring up or address. One is the idea of compromising on this Bill which if it gets passed, that is okay. But I want to point out this Bill is already a compromise because to those of us who are fighting for the life of our land, the idea that we would continue to allow unknown amounts of biocides applied to these

lands while we try to figure out whether it is a good idea or not, that is a pretty big concession. Buffer zones of five hundred (500) feet, five hundred (500) feet does not seem like a lot to me. But I think there have something that we are not even talking about or talking about very little and that is the non-human effects of these pesticides. We have talked about health and safety and this, that, and the other. But the idea of buffer zones assumes that there is a safe place to put these things and to me, that is just fundamentally absurd because biocides kill things, that is what they do. If the life of your land is supposed to be perpetuated in righteousness, if the land that gives life gives you food to eat, it is to be perpetuated in righteousness, spraying poison on it is not the way to go. Now, we can argue about whether biotechnology is sustainable on a global scale, but on a local scale on Kaua'i, it is not sustainable. When the barge stops coming, what do we have left, scorched earth? The ability to grow food on this land I believe, can be recovered. But further damaging it is going in the wrong direction. This Bill is a great start because it starts to give us just a little peak under the curtain that has been drawn over these agricultural practices, but to me, it is just the beginning. I want to see a Kaua'i where pesticides are not an issue. All of this regulatory bureaucratic blah blah, if we did not have pesticides it would not even be an issue. I realize that is a lot to swallow, from where we are now where pesticides are a fact of life. But I think they bring up a good point when they talk about well, the golf courses and "Mr. so and so" spraying on his trees. Why not have a flat fee for every gallon, every pound of pesticide brought into the County because we know it does damage wherever it is put. It is going to damage something, that is the point. Why not have a flat fee and use those monies to remediate and to test?

Chair Hooser: Thank you very much for your testimony.
There is a question from Councilmember Yukimura.

Ms. Yukimura: Collin, thank you. Very intriguing ideas. You are not speaking really against biocide though, are you, because as an organic farmer, do you not sometimes kill pests?

Mr. Dana: Killing pests is one thing. If I smash between my fingers that is one thing.

Ms. Yukimura: Right.

Mr. Dana: If I use a biocide, I contaminate it.

Ms. Yukimura: Biocide has a specify definition?

Mr. Dana: A biocide is a chemical that destroys by poisoning, specifically, a pesticide or herbicide. It destroys life, just like the name implies.

Ms. Yukimura: So, you are talking about chemicals, because biocide to me, sounds like something that kills bio or life.

Mr. Dana: Right, that is what it is. That is what a biocide is. A pesticide, an herbicide...

Ms. Yukimura: But you are talking about how chemical pesticides are damaging to – they are actually long-term damaging to the capacity of the earth to grow things?

Mr. Dana: Yes. When you kill on a regular basis, the very basis of your food chain, which is the microbes, micro flora, and micro fauna that lives in the soil, it is insane from a holistic standpoint. If you are trying to have sustainable agriculture, sustainable life, period, it just does not make any sense. They have a lot of science that they want to throw at you, but biology and the science of what is actually going on in the soil that we cannot see, but electronic microscopes. There is a lot of powerful science that shows most of our agriculture for the last fifty (50) years has been entirely in the wrong track. We are fighting against the vary forces of nature that brought us to where we are now. We are fighting against them instead of working with them.

Ms. Yukimura:

Thank you.

Chair Hooser: Those people that are downstairs, the outside speaker will be turned off in about five (5) minutes because there is ample seating up here for anyone who wants to participate in the meeting. Thank you if you could introduce yourself.

PETER L. DEFUR: Good evening, my name is Peter deFur. I am a Ph.D. biologist. I am from Richmond, Virginia. I came out here to participate in this activity due to the financial support of stoppoisoningparadise.org. It is a pleasure to be here before you and I appreciate the opportunity. I have listened too much of what you had to discuss during the day and I heard many of what you talked about. I wanted to change what I planned to talk about and not dwell upon toxicology and toxicity that you have heard a great deal about with regards to the Restricted Use Pesticides and non-Restricted Use Pesticides. These are important issues and you have addressed that information and I know a fair amount of that technical data has been put before. I wanted to raise a couple of points that have not been discussed yet today and you probably have not heard about them at all in your conversations. They were touched by Mr. Gill this morning from the Health Department when he talked about the fact that most of what we know scientifically, depends upon individual chemicals and testing that has occurred over fairly restricted parameters, fairly short-term, not every animal of course and most of this gives us little information about human testing. We are doing a fair amount of extrapolation and estimating. The other big weakness in our scientific understanding particularly for the exposure of humans to pesticides has to do with what EPA is now investigating and trying to develop guidelines, and that is cumulative risk. Cumulative risk is not just long-term exposure to a single agent, but it is long-term exposure to multiple agents and some of those might not be strictly within one category. It may mean exposure not just to the pesticides that drift across the fence line, but also the dust, what is contained in the dust, biological agents in the dust – you will hear more about that in a minute, as well as lifestyle conditions on which these are superimposed. Recent investigations out of Columbia in fact, indicate that children who are exposed chronically to some of the pesticides that we are dealing with here as well as low-income conditions suffer IQ deficits and greater health impacts than students and children who are exposed to completely different situations. It all has to do with our vulnerabilities and our resiliency. These are issues difficult to address, difficult to understand scientifically, but we do know they are real and that we need to take those into considerations when we are setting protective standards and taking measures like this under consider. Thank you for your time. I look forward to providing you a written version of that testimony.

Chair Hooser:
your...

Thank you, Mr. deFur. Dr. deFur, what is

Mr. deFur: Biology, and most of my work as a consultant is working with communities, agencies, organizations over the clean-up of contaminated sites. So, superfund sites, ex-military bases, contaminated rivers, and the sort of conditions that you do not want to be facing when a farm is closing down.

Chair Hooser: Thank you very much. Any questions? Yes, Councilmember Nakamura.

Ms. Nakamura: Is there anything preventative that can be done in cases where you have worked to set aside funding upfront for potential downstream impacts?

Mr. deFur: Sure. There are a couple of people who have been working on that at University of Massachusetts, Lowell. There is a center for chemical policy and they have been working on guidelines for how you put aside funds for consideration. Now superfund already has that in the law. It is a little bit modeled after that. But it is a set aside for funds and they have developed some guidelines and some principles for doing that, so that when you start an activity, you have a performance bond.

Ms. Nakamura: Thank you very much. I look forward to our discussion later.

Chair Hooser: I just had a quick question also.

Mr. deFur: Yes sir.

Chair Hooser: In your work, do you work with pesticides or have you studied pesticides?

Mr. deFur: I have done a little bit of experimental work with pesticides on aquatic animals and then I have studied pesticides. In no small part through my work as a member of EPA and Federal Advisory Committees on (inaudible) disruptors.

Chair Hooser: My question involves the prior speaker who talked about basically killing the microbes in the soil and repeated use of the pesticides over and over and leading to Councilmember Nakamura's question about your funds for remediation. Does it, in fact, kill all the stuff, long-term? I know it kills the weeds and insects when you spray it on there, but over time is this soil toxic or does it need superfund kind of thing?

Mr. deFur: You can get both changes. You will hear about that from one of the next speakers. The two (2) changes that you can get is one of them would be residues and that is the obvious when you think about are there toxic chemicals that are being applied now that may leave behind residues. The examples come from older agricultural practices where we used chemicals such as arsenic and lead compounds that we know are still going to be in the soil. They do not breakdown, they do not go away, and they do not wash out. Some of our chlorinated pesticides that are no longer currently used pesticides. We have that example. But even the chemicals we use now may leave behind some residues that will alter the flora and fauna that live in the soil. Equally as important and what you will hear about is that they can alter the flora and fauna of what is there even if they do not kill everything outright. That they can alter the bacteria that live there normally, they change the fungal composition, and when they change that

balancing, it is like happens literally, it is exactly the same thing that happens in the human gut. When we take medicines that alter what normally lives there, that is why hospitals have problems with what is referred to as Cdif, because they take antibiotics and it wipes out the beneficial bacteria. Well, the same thing happens in the soil. It can kill the beneficial insects, the beneficial bacteria, the beneficial viruses that will that will keep things in balance and under control, leaving the soil not perfectly healthy.

Chair Hooser: Thank you very much. Other questions?
Councilmember Yukimura. Do we have to do it now, or can we finish the questions?

Ms. Yukimura: I am really amazed that your brief testimony for a Doctor and Professor. My question is, you talked about working with EPA and there are some people who feel EPA is a system that is broken. Is that your perception or do you see EPA as actually doing its job?

Mr. deFur: I think EPA is more on the side of doing its job than just broken. But it is not just a single agency. Hawai'i falls under Region 9. Region 9 is one of the better regions in the Country. Region 4 and Region 6 have a reputation for not being quite so effective and efficient at implanting their own enforcements.

Ms. Yukimura: But EPA is trying to define or assess cumulative impacts, that seems pretty forward looking or at least, responsive.

Mr. deFur: It is. That effort began a few years ago and I had privilege of being involved with their cumulative risk assessment effort and it is trying to understand how the aggregate conditions that affect a community and it is not just individuals.

Ms. Yukimura: Thank you very much.

Chair Hooser: Thank you very much for your testimony. We have to – sorry about the break. We have to take another break to change the tape. How long is that, five (5) minutes? Thank you.

There being no objections, the Committee recessed at 7:51 p.m.

There being no objections, the Committee reconvened at 7:57 p.m., and proceeded as follows:

There being no objections, the rules were suspended to take public testimony.

Chair Hooser: The meeting is called back to order. Thank you very much. If you would like to introduce yourself for the record.

ROBERT STREIT: My name is Bob Streit. I guess I have a bunch of agriculture degrees, thirty-eight (38) years experience in the field, and added to it would be eleven (11) different harvest seasons in South America and Europe as well. I kind of work around the world, mainly a Crop Consultant in Iowa or across the Midwest. Usually, I spend a couple weeks down in South America working with the top researchers down there in off-season. I guess, in my past work with Committees and such I will tell a few different stories and have five (5) different things to focus on so I will probably talk quick. An old friend of mine happened to be Head of Insecticide Research at Dow AgroScience. We talk quite a bit. He died of cancer and the fellow that followed him as Head of Research is an

old college classmate. Anyhow, what I did find out, we used a lot of a product called Lorsban, for commercial use for termites they called it Dursban. Dow had a little bit of a problem with it. When I got here, we went out and visited some fields and we found out they had a problem with Lorsban being sprayed in the fields. We used it for aphids all the time, but farmers are able to escape from their fields. But if you are living downwind of a town where it is being sprayed or downwind of a field where it is being sprayed, you do not have the ability to walk away. But it turns out every person has a certain level of pesticide degradation ability in their system. It is called the P450 cytochrome system. If you do not have quite as high a level of degradation or you are short on minerals, you cannot degrade that chemical. As it turns out, when they are using the sister compound called Dursban for termite control in houses, they happen to have a certain number of children and adolescents that dropped into a coma and they never came out of that. They were paying restitution for those kids. So, if I have kids in that school, I would be very worried about it. But there are better things coming that can be used on it.

The second thing I thought I would mention, there is a lot of dust in that area and I have a few farmers that I work with lose men at harvest time. At harvest time in Iowa, the air was crystal clear, nice in the morning, beautiful sunsets in the fall. But since 2007 when we started to grow up Roundup Ready and Liberty Link corn, we started having a big dust problem. We are they type that we collected the dust from combine fillers and grain fact filters and we had it analyzed. It used to be conventional corn has about a thousand bacteria per cc or per gram of dust. The new stuff has been fifteen million (15,000,000) and a high level of that is *Aspergillus niger*. You may have heard of Black Lung or Miner's Lung, that is the principal cause and some of these people went into the hospital, healthy, forty-five (45) to fifty-five (55) year old, and they never came out. They got a lung infection, the doctor cannot figure out what is going on, and they pass away. At harvest time that is really something that should be looked at and I think probably should be examined. The other thing I have got a study here.

Chair Hooser:
summarize.

That is your three (3) minutes, if you could

Mr. Streit: One thing is, these toxins, you have acute and you have chronic. They did a study at Washington State, peer-reviewed, and they looked at exposing lab animals to a hundredth of what is considered the damaging dose. They followed those test animals through to the third generation and found out what was happening. They were screwing up what is called the epigenetic system where the genes and the traits are passed down and lots of times, the health problems did not show up until the third generation after the exposure.

Chair Hooser: Thank you. I apologize for you coming all way over here and we give you three (3) minutes because of the public testimony. Are there questions from the members? I have a question. Do you have a question?

Mr. Rapozo: No.

Chair Hooser: You are looking at me like you have a question.

Mr. Rapozo: No, I am waiting for your question. I may have one after you.

Mr. Streit: You asked quite a Bill about soil remediation.

Chair Hooser:
Consultant?

Yes, and I did not get you are a Crop

Mr. Streit:

Yes.

Chair Hooser:
lung or situation residue?

What are your qualifications to talk on black

Mr. Streit: I worked with quite of few topsoil microbiologists in the world. I worked with top pathologists, top researchers. This Country, other Countries, and I also get into the so-called skunk works with the cutting edge research is being done with quite a few companies, quite a few different Countries.

Chair Hooser: You mentioned because we are all rushed here, I did not really catch it. The Black Lung reference is dust that has a certain type of pesticide or Lorsban or something else?

Mr. Streit: No, it contains an aspergillus. You have heard of aflatoxin before. That is a mutagenic, very toxic fungal toxin.

Chair Hooser: Where does not come from?

Mr. Streit: It comes from a fungus that lives in the soil, the trash, and the residue.

Chair Hooser: So, it does not come from a pesticide, it comes from a fungus?

Mr. Streit: Right, and it is probably worse toxin there is. Worse than anything manmade, except maybe dioxin. But it lives in the soil.

Chair Hooser: Does it live in Hawai'i soil?

Mr. Streit: I have not spent that much time here, but it is probably ubiquitous, it is everywhere.

Chair Hooser: So, that is in the dust and the people inhale the dust. It that what you are saying?

Mr. Streit: Correct.

Chair Hooser: Earlier the Department of Health, I do not think was clear on health impacts of dust.

Mr. Streit: There is dust that comes from the soil which is mineral in nature. There is other dust, which is biological in nature so we have to really separate them. But as far as curing the soil, that is one thing I have been working on quite a bit. Everyone is talking about all the hard pesticides that are being used. What people is know a lot of major companies are putting a lot of work into developing so-called soft pesticides. These are things that are basically derived from plants or from nature. Say for example, I brought a book along here called Tricoderma Geoclyadium. That is from Gary Harmon who is a top Pathologist at Cornell University. They are filing for a patent on a plant-based insecticide fungicide that looks very good. A company over in Taiwan the same thing.

Chair Hooser:

These would be friendlier pesticides?

Mr. Streit: Much friendlier. DuPont Pioneer was here. I am testing their new product and it would replace the pyrethroids to a great degree. It does not have a gassy smell. It smells like vanilla ice cream. There is also technology that would immediately let companies reduce rates by eighty percent (80%) and it would last three (3) times as long. So, it would probably reduce pesticide loading by ninety-five percent (95%) to ninety-six percent (96%).

Chair Hooser: Great, thank you very much. I appreciate your time. Are there any more questions? No? Thank you.

DON HUBER: Don Huber, Meritus Professor for Purdue University, also retired Colonel as an Associate Director of the Armed Forces, Medical Intelligence Center, Fort Detrick, Maryland, and former Chairman of the USDA National Plant Disease Recovery Program. I compliment you on your Bill. One of the few who have gone back to look at scientific precautionary principle that has served us well for one hundred fifty (150) years. Those two (2) principles that you have in your Bill, the documentation of what is used and then the distance or precautionary distance and your exposure levels are two (2) critical levels or two (2) critical components of that precautionary principle that we rely on to provide safety for us and that we have forgotten the last fifteen (15) to twenty (20) years. It is not what we know as much as what we do not know, and that is why the precautionary principle becomes very critical. But we can document what has been used. I will give you the example. The newspapers in Yakima, Spokane, and Seattle all last week carried the account of asking the question of why so many our babies are being born with encephalopathy. If you go back and recognize what the clinical studies have shown on glyphosate, you would know exactly why we have the encephalopathy because during the early three (3) months of gestation, that is one of the systems that is hit. Why we have an epidemic of cleft palates? Why we have an epidemic of thirty-five (35) diseases that are based on dysbiosis of the intestinal track? Because of the antibiotic activity of this common herbicide that we call glyphosate was never taken into consideration and its registration when they said that since humans and animals do not have this, you can make pathway. It is perfectly safe for us, forgetting that we have to have lactulose bilirubin bacteria and (inaudible) and those organisms in our intestinal track in order for a healthy life because with we cannot absorb vitamins or minerals without the organisms or have protection from clostridium, salmonella, and E. coli that will that void because there are now sensitive to the glyphosate residues that are in our food. I just came back from Guatemala. I came back with Dr. Malcom Summer from the University of Georgia. Serious problems there with renal failure and kidney failure. Again, limited to the sugar cane workers where they are using glyphosate as a desiccant, as a ripener and those programs. So, it is not always what we know, but what we do not know at the time that mandates that we go back to the precautionary principle which you are doing in this Bill. Very conservative. Exercise of that principle in the Bill, but having it there. The same thing in Argentina where they seeing the drift from the GMO soybean fields and seeing those problems.

Chair Hooser: If I could interrupt you for a second. I apologize for interrupting you. Your three (3) minutes passed, but I am sure that there are questions for you. If not from the members, I have a question. Does anybody have questions? Yes

Ms. Yukimura: Are there scientific studies showing the connection between encephalopathy and I guess, you are saying it is due to Roundup or what is the generic term?

Mr. Huber:
cause that.

That is one of the major chemicals that will

Ms. Yukimura:

What is major chemical?

Mr. Huber:

The Roundup.

Ms. Yukimura:
peer-reviewed studies?

Are there studies that have shown that,

Mr. Huber: Yes, there are clinical, scientific peer-reviewed studies which have documented the disruption both the endocrine hormone disruption and other physiological disruption, especially in that earlier three (3) month development. We see the heart damage, we see cleft palates, and we see the neurological damage from exposure to that pesticide because it was not anticipated to be a problem because everything focused only on the inhibition.

Ms. Yukimura:

Could you provide those studies?

Mr. Huber:
you.

Yes, I believe I can furnish those studies for

Ms. Yukimura:

Thank you very much.

Mr. Huber:

I would be happy to.

Chair Hooser: Thank you very much again, for being here. I understand that you have been working extensively in this area for quite some time and are a sought out resource. I appreciate you coming all the way out here. Most of the focus on this Bill and its genesis, if you would, was on what I believe to be an excessive use of Restricted Use Pesticides by a small number of companies in a very small geographical area. I am not sure if you were around today when I was asking about the general use, the glyphosate usage, and I was not able to get that information from the companies. Your research or your focus seems to be on the glyphosate primarily. What would be the major problems that you mentioned some things, but in the community if there was excessive use of this, what would it look like in the community in terms of medical or other environmental kind of impacts?

Mr. Huber: What we are seeing and it is not just in the human population. Fifty-five (55) years of agricultural research, twenty (20) of those on genetically engineered crops and the remediation efforts and that capacity also. What we are seeing is the chronic effects. We have a lot of tests. In fact, for our pesticides of we only test for acute toxicity, that would be testing something like cyanide. But we do not test for the tobacco affects because tobacco affects are chronic, long-term effects. Glyphosate is not a toxic chemical. It is a chronic chemical and as Samson and S&F from the Massachusetts Institute of Technology, concluded in their recent publication, it is probably the most toxic environmental chemical that we have ever had because it does more than just inhibit the ischemic pathway. It is patented. It is a very powerful antibiotic. It is indiscriminately used. We talk about the twenty-nine million (29,000) pounds of antibiotics we used in agriculture. We do not say anything about the eight hundred eighty million (880,000,000) pound of glyphosate that is indiscriminately used that is toxic to the beneficial organisms both in the soil are well as in our intestinal tracts, but it stimulates the pathogens. We have chronic botulism, which in man would be chronic fatigue, we have leaky gut, and thirty-five (35) other diseases. Everything from autism to Alzheimer's to chromes, to Parkinson's Disease.

Chair Hooser: How does the correlate because we have testimony from many people who say, "I have worked with this stuff my whole life. My dad worked with it, I worked with it, my kids run through the fields," and I have had farmers from Iowa say that they washed their hand in it and they are okay. What would your response to that be?

Mr. Huber: It is the number one suicide chemical for South America and Asia because it is readily accessible, it does not take very much because it is a very strong herbicide so that it mobilizes the cofactors for a number of enzyme systems. It shuts the system down. It is a chronic toxin. It is not an acute, so they will not feel the effect immediately. They feel that effect that is something that is accumulative. Part of it is from changing the gut micro flora, but part of it is the direct toxicity as it shuts down part of the physiology of your body also. It is the same problem that we have with the promiscuity of the genetically engineered genes because genetic engineering is more like a virus infection and is a breeding program. Those genes are very promiscuous.

Chair Hooser: Thank you very much. I appreciate the information. Other questions? No. Thank you very much.

Mr. Huber: Thank you.

Chair Hooser: Could we have the next speaker, please?

DESIREE HOOVER: Hello, my name is Desiree Hoover. First of all, I definitely want to thank you folks for being here. I know it is long hours for you folks, too. I am here to have you pass Bill No. 2491 in full, no really watering down. You folks are here for democratic reasons. It is great in talking and so forth. I have read the Bill over and over and over. It is such a commonsense Bill that I am here to have it be passed in full. Instead of wearing my red shirt, I wanted to wear a purple and *aloha* because there should be no division here type of thing. I wanted to let you know on that. I have a friend that is a nurse and I met with them and the nurses, and I was really disappointed and almost kind of scared. They do not have a way of tracking these odd cases or these extra cases where they see asthma, but the inhalers just are not working or kids have nose bleeds, but this is different. They have no way of tracking them. You folks do have to, and not just you, but everybody has to go on the testimonies that it is true. Just the way it is set up, they cannot talk at work anything GMO, health is now turned political and I think that is so scary. But just to let you know, I have actually been able to see some of the doctors and nurses things and as it is right now. Some people say, "Just show us the data. There is more cancer here. There is more of this there." They cannot break it down. They cannot separate it out. Hopefully, they are working on it and so forth, to logging it and so forth. But the data, I was kind of shocked and scared to hear that. We cannot be handing these issues up to Department of Agriculture and anybody higher again because they are just not doing their job. In fact, obviously that is why we are here. We are having all of these issues. You are right it is already in the law book and so forth. They just are not doing their jobs, whether they are being infiltrated by the seed companies themselves and so forth. They are just not doing their jobs. I myself, I have had so many people and I go to different organizations, they say, "How can we hold them accountable?" Just recently, I opened up a petition and there is a movement going that everybody is watching because you folks are our only hopes. The people that do vote for Bill No. 2491, definitely got your backs. The people that do not, the people that cannot lead, not only are they not going to want to vote for you, but also when elections come up again because people forget, there will be a campaign reminding people we do not feel that they led for the people. This is really important for the people. Just here

to let you know that we are counting on you. I myself am having to leave. My sister is really, really sick and I probably will not be back for another month or two (2). I will not be able to go to these hearings. I love this island and I really do not like what is going on. She is getting hurt and you folks are our only saviors. Go ahead and do your talking, but do not water it down. Remember this is about health issues. Thank you.

Chair Hooser:
speaker.

Thank you, so much. Thank you. Next

Ms. Caldeira:

Mark Kennett, followed by Antonio Pope.

MARK KENNETT: Good evening. I was not going to say anything tonight. Obviously, I am in a blue shirt. I oppose the Bill. But after listening to a little bit of things going on earlier about the EIS, just bring something to mind. Out on the West Side we have a large toxic dump out there that nobody has addressed here in many, many years. I would like to see that included in the EIS, if an EIS goes through. Thank you very much.

Chair Hooser:
speaker.

Thank you for your testimony. Next

MARY LACQUES: *Aloha* Chair and members of the Council. My name is Mary Lacques and I am here in strong support of Bill No. 2491. I live on the North Shore of O'ahu where the communities of Haleiwa and Waialua are also being heavily impacted by the presence of the agrochemical companies in our communities. I feel very fortunate to live near the ocean, but life on Oahu, seven mile miracle is greatly blemished by our lack of right to know what is being sprayed in our neighborhoods. Right behind my house on the ridge, Kamehameha Schools is leasing to Monsanto. As I look out along the base of Waianae Mountain Range, DuPont Pioneer has a huge presence in Waialua as we look out to Ka'ena Point and the Garden Isle. I hope you got a chance to open the link in my written testimony, which had an aerial view of DuPont Pioneer's operations in Waialua. It looks very much like the West Side of Kaua'i. I am here speaking for many people who are concerned about the effects of the practices of these multi-national agrochemical companies, the affect that they have on our precious ecosystem, in my community and on the residents and environment of the West Side of the Kaua'i. As you know, the use of Restricted Use Pesticides is a practice that conventional farmers are not employing on Kaua'i and those that are using the Restricted Use Pesticides should face immediate and comprehensive scrutiny. Regarding what I regard as an unacceptable assault on the *'aina*. Bill No. 2491 is a very well-written document which can obviously be fine-tuned and amended. We are asking you to protect your constituents in particular, the children so your actions reflect what is right for the communities. We are respectfully urge you to take the lead to enact legislation that will reverberate throughout the island chain. An Environmental Impact Statement is a good place to begin to fully comprehend the scope and nature of this industrial model of agriculture in our communities and it also provides residents and visitors with the right to know what chemicals are being sprayed, when and where. That is just obvious commonsense. As you heard in Ms. Ruggle's testimony, there are many Counties, in fact, several Cities that have enacted legislation concerning pesticide use. I do not want to take any more time away from residents that would like to testify. I sincerely would like to commend you on honoring the democratic process as you have for so many hearings and testimonials from people. It is actually very, very refreshing.

Chair Hooser:
Mary. Next speaker.

Thank you very much for your testimony,

Ms. Caldeira:

Mitsuko Hayakama.

ANONYMOUS:
supports the Bill.

Mitsuko had to go back to O'ahu, but she

Ms. Caldeira:
followed by Erica Schneider.

Next registers speaker is Angela Hughes,

ANGELA HUGHES: *Aloha.* Thank you all for being here at this late hour and I have been to all of the testimonies and so have you. I just want to tell you that this experience has been the most involvement I have had in government in my whole life all put together times like twenty (20). But it is an issue extremely dear to my heart and especially since I am a parent. But even before I was a parent, when I was a little girl, I had a deep connection to the land and I know we are all connected to it sustaining us. I will skip the esoteric stuff. I just want to let you know that I feel so much renewed hope and inspiration for our future and having an in-depth knowledge of chemicals, pesticides, and GMOs from my own personal research and exposure throughout the community, it can be something that is very overwhelming and concerning. I also make sure everything is verified. I do not go with "hocus pocus" stuff. This has really helped me to believe that it is possible for us to work together and to overcome obstacles and to find a common ground. I have so much confidence and faith in all of you. Thank you so much for all of do. I stand one hundred percent (100%) in support. I have sent a couple E-mails, Facebook. I will find volunteers if you folks need help. Just thank you so much. The community really appreciates it. Even though you have got us firing from all directions with this and this and this, it is like we care and on behalf of everybody, thank you so much. *Aloha.*

Chair Hooser: Thank you. Thank you for your testimony.
You kind of brightens up the evening a little bit I think. Thank you.

ERICA SCHNEIDER: *Aloha.*

Chair Hooser: Hi there.

Ms. Schneider: First, I would like to read a statement from Jasmine Schaefer. I am Erica Schneider. I would like to read a statement from Jasmine Schaefer who could not be here tonight. "Aloha, my name is Jasmine Schaefer and I am a Minister of Unity Kaua'i Church. I began a petition on moveon.org a few weeks ago, which I E-mailed you this morning. It could contains two thousand six hundred seventy-nine (2,679) signatures and is two hundred fifty-six (256) pages long. Two hundred fourteen (214) of those pages are from Hawai'i." That letter was much longer originally, but after hearing all of the discussion about amendments today, I checked, reading the rest of it and decided to address a couple of other things and I am sure that Jasmine will forgive me if she is watching the live feed. "Please, please, please, please uphold the moratorium on expansion as it is currently in the Bill or with minor changes. Do not water this down. These companies are not planning on staying on the West Side. Otherwise, they would not object to this part of the Bill and be fighting it so vehemently. They are fighting the moratorium on expansion because they are already looking at land at Keālia Kai in Kapa'a, Kalihiwai Ridge in Kilauea, and North Shore. What is going to be down the trade wind of the fields if they go into Keālia, Kapa'a Elementary School, Kapa'a High School, Saint Catherine's School, and Kapahi residential community? My kids swim in Keālia every day. That watershed comes down into Keālia Beach. The watershed from Kalihiwai goes down into 'Anini and

Kalihiwai. If you believe these chemical companies when they tell you that they are experimental pesticide producing corn is contained in the fields and that the pollen does not spread, they are lying to you. They are not telling you the truth and going North side would put them in close proximity to organism farms that are feeding Kaua'i. They are feeding the people. The very first EPA fine or violation regarding genetically modified organism was here in Kaua'i a few years ago against Dow and Pioneer for twenty thousand dollars (\$20,000) and seventy-two thousand (\$72,000) failing to notify the EPA that their experimental pesticide producing corn had spread to other corn fields and polluted them. So, moving North of Kapa'a will destroy the sovereignty of our farmers that are actually feeding Kaua'i."

Chair Hooser:
summarize please.

That is you three (3) minutes. If you could

Ms. Schneider: In summary, please also uphold the environmental assessment. I do agree with JoAnn and Nadine. I think it is a good idea to do the comparison. You were calling it the joint fact-finding study, but if you do not have the science to back it up, these companies are just going to shred it apart and say it is anecdotal. Thank you. Do not water down the Bill. I believe in you folks.

Chair Hooser:
speaker.

Thank you. Thank you so much. Next

Ms. Caldeira:
"Pa."

Robert Bueller, followed by Sandy Phillips

Chair Hooser:
the next name.

And the next speaker? If you can just read

Ms. Calderira:
Nonaka.

Sandy Phillips "Pa," followed by Russell

Chair Hooser:

Sandy or Russell. Read the next name.

Ms. Caldeira:

Heather O'Donnell.

Chair Hooser:

Heather is here. Who is after heather?

Ms. Caldeira:

Dustin Barca.

Chair Hooser:
you. Hello, Heather.

Is Dustin here? I do not see Dustin. Thank

HEATHER O'DONNELL: Aloha. My name is Heather O'Donnell. I have not even been really sure I was going to get up and speak today. I agree with the woman right there who says this is the most involved in politics. I have never been to a City Council Meeting. I have waited outside of the Veteran's Memorial for a really long time at the last one, but I so appreciate this Bill. It really gives me a renewed faith in government in general. Many people have said so many beautiful things that I agree with one hundred percent (100%). This land we live on, we are so lucky to live on such sacred, precious, and beautiful land. I think it is just an absolute nightmare that chemical companies, these are not farmers, these are chemical companies that have come in and are using our land for nothing good for Kaua'i. It is doing badly for us, for our land, for our kids, for our people so that we can ship GMO seeds out to the rest of the world. It is just a nightmare. I am

against it. This Bill is giving a whole lot of people hope. I know there are thousands of other Kaua'i residents that would be in here if they could. We really appreciate you hearing us. We feel this strongly. I know you folks are judging all of these things that all of these people are saying and trying to come to the best you can, but I do not have a lot else to say. With all my heart, I support this Bill. I thank this Bill for being out there and I thank you for hearing us. Thank you.

Chair Hooser:

Thank you so much. Thank you.

Ms. Caldeira:

Dustin Barca followed by Don Heacock.

DUSTIN BARCA: Aloha, Dustin Barca, 'Ohana O Kaua'i. One thing that is most scary about these corporations that are on our island is that they are the biggest chemical corporations in the history of earth. You Google these companies and you read Wikipedia on their history and you will see nothing but death and destruction left behind everywhere that they have been. I heard you say on the radio the other day, Mel, that I am not going to vote for this Bill because it is the cool thing to do because everybody is walking around with their "Pass the Bill" shirts. But the reason everybody is walking around in their "Pass the Bill" shirts is because it is the right thing to do.

Chair Hooser:
whole body, please.

Mr. Barca, address your comments to the

Mr. Barca: Excuse me. I do not mean no disrespect. But that is what I feel. It is not just Waimea that is being affected by these companies. They are in Po'ipu. It is affecting Po'ipū. It is affecting Kōloa. They are in Līhu'e. They are all the way to the Wailua River. What is next? What is next? Keālia, Kīlauea, Hanalei pretty soon...what do we have left? We are all being poisoned. We are all in the same situation that they are in on the West Side. We all know what happened yesterday? Four thousand (4,000) to six thousand (6,000) working-class people, the kind of people that cannot show up to these meetings, that wish that they were at every one of these meetings, came yesterday and we all in the same frame of mind. We all have the same point of view on this Bill and it is to pass this Bill. If there are any amendments, it should be taking the EIS and then taking the disclosure and matching them up. That should be the only real amendments to the Bill. You should be able to take the pesticides that they say they are using and use the EIS and then it will all makes sense. I do not see any other part that really does not make sense. I think it is just time we start thinking about the future of our island. We are already seeing enough. We have seen so much effects of what happened before. We are going to keep taking and taking and taking. It is time to give back to our land. It is time to think about the future. How our next generation and the next generation are going to start feeling, how they are going to living? How is their health going to be? We are already seeing the effects. The trust is gone for these companies. The trust is gone. I do not know how they are going to gain the trust back, other than backing this Bill and working with the communities. Like I said before, it is time to put human health over corporate wealth. That is a fact. Thank you folks very much. Thank you for your time. *Mahalo nui.*

Chair Hooser:
Any questions? Thank you.

Thank you very much for your testimony.

Ms. Caldeira:

Matt Olsen, followed by Kawai Warren.

MATT OLSEN:

Aloha.

Chair Hooser:

Aloha.

Mr. Olsen:

Most of what I was going to say...

Chair Hooser:

If you could introduce yourself for the record.

Mr. Olsen: Excuse me. My name is Matt Olsen. I live in Kalāheo. First of all, I want to express my gratitude. What you people are doing is a wonderful thing. You are setting an example for other people to continue doing the right thing. You are doing it in the right way too. You are listening to every side of the story. I just love what is going on here. The last time I spoke, I mentioned that my point was that there is more jobs created when pesticides and herbicides are removed from the scenario. I was speaking directly to the blue shirts out there who were talking about their jobs and such. I also referred to the fact that when I was a kid and teenager go out to Iowa and walk the bean fields and that that is not done anymore at my brother's farm in Iowa. It is all done with Roundup. That brother just died four (4) days ago of cancer. My other brother Chris who used to work on the farm with my brother David a lot, also died of cancer. I cannot say for sure that they died because of it but what this Council is doing is requiring some of the information to able to determine that. What pesticides are used? Mesothelioma is caused by asbestos poisoning. If we have more information, we can figure out what cancers are caused by what. So, you are doing the right thing collecting the information. There was one other concern I have, is that a lot the times when pesticides are referred to, herbicides are not. I do not know if pesticides include herbicides in the words. But it is important not to just focus on heavily toxic RUPs. It is very important to also focus on the General Use Pesticides. Roundup is one of those and I believe that is partially responsible for some of the death in my family. I have has four (4) family members die of cancer. My mother has Alzheimer's. On that subject, I am going to bring a subject you would probably rather not hear today and that has to do with – well, first I will refer to the fact that Monsanto has patents not only for corn and soy beans that are resistant to nonparticlr of metal.

Chair Hooser:

If you can summarize please.

Mr. Olsen: ...that are being sprayed in contrast and such. Now, there is a block that you will run into broaching that subject at all. I do not think it should be part of the Bill. I think it is something for a future time, but it needs to be addressed. When Monsanto has both patents...

Chair Hooser:
sentence.

That was you three (3) minutes. Your final

Mr. Olsen: For the spray and plant. It is probably being used in (inaudible). Thank you for your time. Do you have any questions?

Chair Hooser:

Thank you.

Mr. Olsen:

Thank you.

Ms. Caldeira:

Kawai Warren, followed by Klayton Kubo.

Chair Hooser:

Klayton.

Ms. Caldeira:

Klayton Kubo.

Chair Hooser:

Followed by?

Ms. Caldeira:

Followed by Robin Robinson.

KLYATON KUBO: My name is Klayton Kubo from Waimea, Kaua'i. I think about it these days, these past months, if a company had only listened then maybe we would not even be here. If they cooperated with the residents. I do not know how you folks are going to trust these companies. That is all I can tell you folks right now. I do not know how you folks can trust these companies. Even me right now, how can I gain trust with that company that I have been going after for thirteen (13) years? Yes, and you folks know who that is. It is like I do not know how. Who is going to protect us? The State is not doing their job. I just got an E-mail today and I should not have brought that up. The State is not doing their job. It is like passing it over to somebody else. Now it is you folk's hands. Right now, it is fourteen (14) hands right now that is actually in, right? But for now it is ten (10) because only five (5) are going to vote. I ask you folks and you beg you folks for all the years that I have been in this, you folks have to help this island. I do not know how these folks are going to gain your folk's trust. I am not only just talking for Waimea right now. I am talking for the whole island. I die not come over here. I am from Kaua'i. I am from the town Waimea, so I have no idea how you folks can trust these folks. I have heard enough testimonies from all of these companies and it just blows my mind what they can say because of the experience I have with one (1) them. It is unbelievable, how they can just talk. I was watching my laptop today and I just could not not come here tonight and talk again. Yes, I am serious. I had to find somebody to pick up my mother from dialysis to be here tonight. I am going to say this again. We need your help on this island. The State is not doing it. It is in your folks hands now. What do you folks want us to do? You folks like us to protect ourselves? I do not think you like us to do that because it is going to get crazy, big time. Yes, big time. Yes, I was told by one (1) person that maybe I should tone down my language and I should not stare at people. But honestly, for thirteen (13) years this one company is just irking me majorly. Yes.

Ms. Caldeira:

Three (3) minutes.

Mr. Kubo:

Any questions, Ross? How about you, Mel?

Chair Hooser:
testimony.

No questions, thank you very much for your

Mr. Kubo:

Mahalo nui.

Chair Hooser:

Thank you very much for your testimony.

Ms. Caldeira:

Robin Robinson, followed by Janice Balaun.

Chair Hooser:

Robin, Janice. Next speaker please.

Ms. Caldeira:

Trudi Kilar.

Chair Hooser:

Next speaker. Trudi.

Ms. Caldeira:

James F. Riley.

Chair Hooser:

Keep rolling.

Ms. Caldeira:

Robert Gandia.

Chair Hooser:

Who was that?

Ms. Caldeira:

Robert Gandia.

Chair Hooser:

Robert?

Ms. Caldeira:

Angela Flynn.

Chair Hooser:

Angela is here. Who is next?

Ms. Caldeira:
Oliver.

The last registered speaker is Thomas

ANGELA FLYNN: Good evening. My name is Angela Flynn. I have been watching off and on today from my house and really felt the need to come because it is clear that you all are not going to – I should not say that, but the way I have been reading this, this is a hesitation to pass this Bill as it is tonight. I moved here in January to Kaua'i for the same reason many people do. It is beautiful here, the climate is incredible, but there is something deeper than all of that and it is the Hawaiian, the *kankamaole* culture and spirituality and it resonates with people. To me, the most important thing is the sense of *pono*, balance and harmony. My question is how many children is it acceptable to poison for five hundred (500) jobs? Where is the balance there? I do not see it. To me, one (1) child being poisoned outweighs all of the jobs. We need to protect your *keiki*. We need to protect all of us, our environment. I know it is hard because these people are nice. You talk to the people in the biotech companies, they are nice people. It is not like they are monsters. I have worked for corporations. They are nice people, but it is a mindset that people get into and they are caught in a trap. It is your job to help us all pull out of that trap because it is not good. I mean, in the United States the tendency is to put the cart before the horse while the horse returns over the cart every time and that is what is happening worldwide and it is this mentality of profit before health, of doing the studies. We rush everything onto the market because we cannot wait because it will cut into the profits. It is hurting us all. I see so many people who are so ill. I have been an organic farmer and also a professional landscaper. I have had pesticide poisonings. I am careful. But it is hard. You still get the poisoning. It is so hard to avoid that and it is toxic. Somehow we need to pull out of this. The world needs to pull out of this and I really feel Kaua'i is the place that needs to take a stand. These companies threaten to sue. I do not think they are going to. Number one, they do not want the bad press. They do not want to bring the whole attention of the world onto the fact that they are dousing Kauai with pesticides and we do not like it. Also, this Bill has been reviewed. We have the legal backing and we have free legal lawyers who have said that they will take this up if we do get challenged. I am just here tonight, I mean I drove here from the Kilauea area because I want you to pass it tonight. I do not want you to wait. I do not want one (1) more child to be poisoned. My last thing is would you invest with a clock because it is nice when you are giving testimony and you can see when your time is running out? It is probably not that expense.

Chair Hooser: Thank you very much. Questions? Thank you very much for your testimony. Next speaker please.

Ms. Caldeira:

Thomas Oliver is the last registered speaker.

THOMAS OLIVER:

Aloha Council.

Chair Hooser:

Aloha.

Mr. Oliver: My name is Thomas Oliver. First, I would like to say thank you very much for writing up this Bill. I do not really know what too much to say, but ultimately, I just came here to support the Bill. I know you folks are sitting and you have to collaborate and figure out what is right. Ultimately, you folks know what is right. Yesterday, we all came together down the street, red shirts, because we know it is the right thing to do. Kaua'i is the most beautiful place in the world and I have been fortunate to live here my whole life and the thought of the chemicals, the amounts of tonnage that is going into the land, if it is Kaua'i or if it is anywhere in the world, it needs to stop. There needs to be a different shift of a way of life and chemicals to kill so that something can flourish, which is modified organisms, whatever. It is just wrong. Ultimately, each and every one of you folks know what the right thing is to do, how it feels. It is a corporation link. Like Dustin said, it is the biggest money in chemicals. Going back to the Holocaust where it was chemicals that were used to kill. It is sad. We do not need it. We are too precious of a place, speaking for Kaua'i. Another thing I wanted to say is I was at home watching, I shot in there, but how it works is the majority rules, right? Kaua'i has come together. The blue shirts and I have sympathy for every blue shirt because their job, Monsanto, all of the companies, that is how they make their living, that is their livelihood. For them to stand against it would be really hard and that is where every red shirt should at least understand that. But ultimately, as for you folks Kaua'i came together and said, "We do not want this." The majority is looking at you. What is the majority? Right now it is a Bill that you have proposed and that is a first step and it feels good. Yesterday felt really good. We walked together and we all for one thing and it felt really good. For whatever reason, I know deep down you guys all know what the right thing to do is. That is about it. Thank you very much.

Chair Hooser:

Thank you so much.

Mr. Oliver:

You folks have a great night.

Chair Hooser: Questions? Thank you. Is there anyone else here who has not spoken and wants to speak? Please come forward.

JERI DI PIETRO: *Aloha* Council my name is Jeri Di Pietro. I am with GMO-free Kaua'i. I want to thank you so much for introducing this Bill for disclosure of Restricted Use Pesticides and for the health and safety of our island. After all of these years, I am happy that our community, moms, dads, nurses, fishermen, food farmers, surfers, and students are so well-educated about the tremendous pesticide use. We are registering a lot of new voters and many of you were at the Mana March yesterday and you have seen the faces. I think the way a win-win would look for this Bill is the Council standing with the community and the rest of the world all of the visitor industry, standing by to cheer us on as we receive disclosure and begin our health studies and get whole again. We do have the right as a County to pass this Bill. The County level is our most powerful system. This is why we fight for the right to know. This is why we fight for Home Rule. We back you folks up when you have to fight for preemption by the State and Federal agencies. Counties regulate these types of issues all the time. We cannot expect the State to take care of us. Look at the Waimea Canyon Middle School Air Quality Study, four and a half years (4 ½), fifty thousand dollars (\$50,000) and all they reported on was stinkweed and stinkweed compounds. We cannot bet on the State to help us and we have the power and we have the right. We need to know what is being sprayed, how much, where and when? Right now, people do not have a head's up to close the windows on their homes. The way the winds vary and change

direction is not suitable for nitro spraying six (6) feet off the ground. If the label is the law, then they should not be spraying near streams, groundwater, aquatic animals, nor children. Everything on Kaua'i is *makai*. They should not be using Restricted Use Pesticide on the Mānā Plains. The threat of a lawsuit is only a threat by these chemical corporation. Do not be afraid. We are counting on all of us to stand strong together. Disclosure and buffer zones are very, very reasonable. We do need a County Agricultural Commissioner. The fact we do not have one is part of the reason we are being taken advantage of. There is no one watching to ensure the best practices. This is not only West Side, Po'ipū, Puhi, near Island School, Līhu'e, near German Hill, by Wilcox Hospital, in Hanamā'ulu, there is continually spraying. Folks in Puhi and Līhu'e hear the spray trucks at night. The smell of the chemicals is coming into their homes and all they can do is wonder. There is no way...

Ms. Caldeira:

Three (3) minutes.

Ms. Di Pietro: That is no way for them to live. Lisa Jackson, the past Head of the EPA wrote recently in Jet Magazine about the social injustice that plagues small communities. Areas like this are shouldering a disproportionate burden of the environmental toxins and the potion. We need to act now. We need the disclosures and thank you very, very much for beginning this process.

Chair Hooser: Thank you very much for your testimony.
Are there any questions? Thank you very much.

Ms. Di Pietro:

Mahalo.

Chair Hooser: Anyone else here who has not testified who would like to testify? Please come forward. It will be twelve (12) hours in ten (10) minutes.

MARK WILLMAN: I will try to make it brief. Thank you very much for giving me the opportunity to speak. I felt that I really needed to speak. My name is Mark Willman. I live in 'Ele'ele and a registered voter. Again, thank you so much for your time. What I want to relate to you is how this Bill has affected me. That is all I can really speak about. This Bill and the proponents have instilled fear in me. I am actually afraid to go out with my blue shirt. I do not feel safe. I have been accused of being a killer, a poisoner, and I do not think that is fair. I believe what I am doing is right and as I told you July 31st, I am a Christian man. I believe that Jesus is my Lord and Savior and the Bible is the living word of God and I follow those principles. If I was poisoning somebody willfully, there would be a dichotomy, that would be in conflict with myself. But I am not in conflict with myself in terms of what I am doing. I am in conflict in living in paradise.

Chair Hooser: Please address your comments to the Council.

Mr. Willman: I am. This Bill and as I said this the other day, before it is even been enacted has had a terrible effect on me, my coworkers, and wife. We are physically getting sick from what I am going to call psycho-terrorism. We are being threatened, we are being abused, and I plead with you to take the high road and to take a leadership role and to bring us together and not to pull us apart. I recognize that some people do see the merging and the coexistence of red and blue as the Mokiha is purple. I appreciate them for doing that. Please, as leaders, take this horse by the reins and lead us into where both

people can exist, where both parties can exist. I talked to somebody from Moloka'i today, there is coexistence with conventional farming, with organic farming, and with seed farming there. I ask you to look at those examples and do the same here. Do the right thing and lead us together. Not one way or the other, but lead us in unity. Thank you for this opportunity.

Chair Hooser: Thank you. Questions? Thank you very much for your testimony. Anyone else who has not testified who would like to testify? Thank you all for your testimony.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Hooser: I think from our earlier discussion that the amendments that various members are working on are not ready, so I would recommend a deferral and allow everyone to get their amendments ready. I do not want to unnecessarily or excessively keep extending this myself and I would recommend that we defer it, I believe it was to the date of Tuesday of next week? September 17th was the date that I think we had targeted earlier. September 17th? So, that would be my recommendation. Yes, Councilmember?

Mr. Kagawa: I have heard over and over by supporters of the Bill that they do not want it amended they do not want it watered down, and they want to vote on the original Bill. I think delaying it for amendments will go against what they are wanting. They are wanting for the Committee to vote on the Bill as-is and next week we would have it at Council Meeting for a final vote.

Chair Hooser: Councilmember Yukimura.
Ms. Yukimura: Well, my way of looking at it is if we want to bring the island together, can we find a way to amend the Bill that will achieve the protection that the Bill intends to provide without unnecessarily impacting the economy and the jobs? For me, that is the question and that is why my line of questioning has been to understand how the companies are impacted, how the spray and drift occur, and whether will are ways and measures to prevent that and still have a Bill that works and the studies that we need, and make this a first step towards increasing protection based on science and based on data. I would like some time to at least try to craft these amendments. If the Council feels that they would not work, then they can reject them and either vote the Bill up or down as-is. But I think we have a responsibility to secure the protection this island needs, but without unnecessary and unintended consequences.

Chair Hooser: Yes, Councilmember Kagawa.

Mr. Kagawa: If I could respond to that. Will you have everything that you want ready by next week or do you want a month? Because the other way is just the Bill in itself is a very strong Bill, I believe. Some believe it is not strong enough. They do not want it watered down. They want to see if it can pass in its original form and I believe it deserves a vote. But if you want to go with the compromise where we are doing a lot of amendments, that is fine with me. But to me, it seems like you are talking about some really intense work that needs more than a week. So, if you want to, they said that a month ago, kick the can down the road and let us kick the can down the road. Other than that, I see in a week we will be deferring it again another week. It comes to the point where everybody I think, has heard enough and we need to do what we need to do. Thank you.

Chair Hooser: Councilmember Yukimura.

Ms. Yukimura: What I am trying to do is not easy or simple and I would like at least two (2) weeks. We have other week we have to do. I have an Affordable Housing Meeting this Friday and we have a regular Council Meeting. So, two (2) weeks I think I would try to have everything ready. Right now, the Bill as-is would cut Kaua'i Coffee's, a non-GMO company, lands by fifty percent (50%) and that will cause economic impact and could lose jobs. I do not know that it is necessary to protect but that is what we have to try. We have to find this place, if we can. Where we can secure protection, but not hurt jobs, and I am saying we should not sacrifice protection for jobs, but if we do not have to hurt jobs we should not and that is the narrow path I am trying to find.

Chair Hooser: I just want to comment also. Obviously, I support the strong Bill. There are some amendments that are necessary for clarification purposes. The buffer zone item amendments that Councilmember Bynum discussed fulfill the intent of the original Bill so the language need to be clarified so that it does not impact drainage ditches and the interior roads. Those are kind of amendments that would customarily be done on any Bill. They are clarifying amendments and they are housekeeping amendments. There is at least three (3) for four (4) of those that need to be done which are not ready for tonight. Anyway, I think those need to be done and others might have more substantial amendments. Councilmember, it looks like you wanted to say something?

Ms. Yukimura: He want to go home.

Mr. Rapozo: Well, I wanted to go home a long time ago. This is why we are here and I appreciate the public testimony and the discussion. I think it is a discussion that definitely had to be had. But I think my position as I stated when I did the PowerPoint is that there are mechanisms in place right now for us to get some results. We heard from our Public Works Director. He has no clue and he should not. This is not a Public Works function. We are just saying we are going to stick it in Public Works. He is an Engineer. This is not Public Works. There is not a jurisdiction on this planet, I believe, that has pesticide enforcement and regulation in Public Works. We are trying to make this fit in an existing system. What are we doing? Larry Dill, sorry, I do not even know how we are going to do it. I do not have a clue. We pass the Bill tonight, it goes to full Council, we pass the Bill, and then what? What results are we going to get? Nothing. We are going to get an Engineer who is going to say, "Well let us hire a consultant. Let us hire a consultant to tell us what we have to do next, at the cost of about on hundred thousand dollars (\$100,000) so that somebody can tell us that you need to hire five (5) employees or four (4) employees, you need to hire this much space, you need a Clerk, you need a Secretary" and that is what the consultant will do. In the meantime we see absolutely no positive results other than the fact that we could be proud to say that we passed the Bill. I am not interested in that, as I stated earlier. I have asked the Deputy County Attorney to pursue at least draft a memorandum of understanding between the County and the State so we could get the cooperative working agreement State Department of Agriculture, so that this County could enforce. That could be done relatively quickly. Then this County, we have not even had the Mayor here to acknowledge whether or not he supports this or not. This Council has no authority whatsoever to direct any Department Head to do anything and again, we have seen that numerous times in my time on the Council. See, I am a realist, and I know people do not want to hear that because it is not the popular thing. Let us just pass it and worry how to implement it later. That is not how I roll because that provides no assurance to me that we are going to get the results that we are all trying to get. Really, if you look at it the objectively, if we really want to make it safe out there, if we really want disclosure, and we really want the buffer zones we pass the Bill, three (3), four (4), or five (5) pages of paper, the

Mayor signs it, and then what? And then what? If we get a memorandum of agreement and understanding with the State that allows us to enforce the law, Chapter 149A, and this County can go out and look at what is existing in the law today. The fact that if a chemical drifts and ends up in the water, that is grounds to revoke a permit. It is not being done by the State. I am not disagreeing with that, but it does not say that the County could not do it. It does not say that the County could not go out and prosecute. That is all I am saying. If the State is not doing it, let us do it. But let us do it within the legal frame work that exists today. I know it would be an emotional victory or a moral victory to get this passed because we can tell the world that we passed a Bill, but I am not interested in the accolades or the pats on my shoulders. I am more interest in making sure that the people that are affected are safe. Some may say, "Mel, you are just punting." I read Facebook too and sir, I have been threatened. My wife has been talked about. It bothers me. That is not *pono*, not at all and it frustrates me. But I have to look past all of that and sit back and sort out all of the facts and determine what is the best way we can get to where we need to be with the least resistance. You saw, if you were here earlier, you saw the presentation. The laws exist, the penalties exist, and this County can do something using the existing framework. I know many will disagree. I can tell you, I am not going support the Bill simply because of that. But I will say this, if the State comes back and says, "No, we will not work with you, we will not allow you to work in a cooperative work agreement with the State," then I believe this County has a right to move forward. But I believe it is premature because I believe is that in the State law, there are provisions that we have not exercised yet, this County has not exercised. So, that is my position. I do not think it is a secret and it is what it is. I just want to make sure that we can get to the point. We talk about bringing the community together, red, blue, if you have read what has been said out there and the allegations and accusations, it is going to be very tough to bring the red and the blue to a purple. That is just the reality. Some words have been said that cannot be taken back. But yet, I believe there is hope that if we formulate a working group of both sides that can actually agree to disagree and to work through the issues, and I am talking to the seed companies too, you folks have to be willing to compromise as well. It was not very promising today what I heard on the floor. Both sides have to agree to come together and work to a resolution. I believe that is possible and I think that is the end that we have to work towards because at some point, we have to restore the relationships that has been destroyed or been damaged. I do not say "destroyed," but has been damaged in the last couple of months. If people think that that does not exist, that that has not occurred, then you are not being real because it has. You folks have sent a lot of E-mails on both sides, but we have received them all. We have read them all on both sides and there is some definite damage that has occurred and it is going to take some work to restore it and repair it. Hopefully, we can get to that point. Thank you.

Chair Hooser: Thank you, Councilmember Rapozo.
Councilmember Nakamura, do you have some words of wisdom to share with us?

Ms. Nakamura: I do not know about words of wisdom at this time. I do have some amendments as well that I would like to continue to work on and we will need some time. I think it is very important to have the GIS maps that Councilmember Bynum is working on. I think that is good data to make better decisions. I think it is important that the public understand the legal issues that we need to address and that opinion will not be ready for another three (3) weeks. I think for that reason, I would support a deferral.

Chair Hooser: I understand. I can count. There is three (3) of us at the table that would support a deferral. The question now is the date of the deferral. My suggestion was a week from tomorrow, Councilmember Yukimura said

she needed two (2) weeks. I would like to continue working on it because obviously, if it is amended then things change as we go. If we are able to work on the amendments, get the GIS, and that kind of thing. Can we...

Ms. Nakamura: But my understanding from Councilmember Bynum's comments is that he is meeting with some seed corn people to get information next week. I do not think the maps will be ready next week.

Chair Hooser: I think he can get the maps ready, from my discussions with him. He is meeting with the companies also, but I think we can get the maps. Councilmember Yukimura is asking for two (2) weeks and I was asking for a week and a day. If we can look at the calendar possibly and two (2) weeks and that way we can continue working on it and not let it go just for a month or more because I am hopeful that we can get it resolved, the major amendments. But if not, there might be another deferral and I just do not want it to be Christmas or January and we are still here.

Ms. Nakamura: Two (2) weeks takes us to the 24th and I am going to be out of town from the 20th to the 25th.

Chair Hooser: My suggestion was the 17th and you are leaving the 20th?

Ms. Nakamura: The 20th to the 25th.

Chair Hooser: Can you make the 17th? No? Yes, Councilmember Kagawa.

Mr. Kagawa: It is kind of frustrating that a month ago you said to have your amendment and when you tell your Committee Members to have your amendments, it is have your amendments and your impact impacts. It goes together. We were not even close to being ready and that was a month's time that passed. I would say just wait another month and everybody please be ready because I just cannot see keep coming back and going through this whole process again and amendments are still not ready. The closest we go is three (3) weeks being that Councilmember Nakamura is going to be out and I would want her here. Let us say a month is just a week from that. Just give it a month, everybody work hard on their amendments, and have the backup data. I think when we have amendments, we should even do a presentation so the public can see some of the impacts. I mean, I think when we just talk verbally we have paperwork in front of us which the public does not have. This is an important issue. I think the public should know the amendments being proposed and when they testify, they can say whether they are for amendments also.

Chair Hooser: Thank you very much.

Mr. Kagawa: Thank you.

Chair Hooser: I agree, the public should be aware and that is why I am glad that we had a really good discussion today. At least the public has some idea of some of the amendments that are being discussed. The two (2) Councilmembers that support the deferral, that want to make amendments, if you could give me an idea of your calendars and then we can see if our calendars...

Ms. Yukimura: What about the 1st?

Chair Hooser: The 1st of October?

Mr. Rapozo: Mr. Chair, I am not going to oppose a deferral. I am going to support the deferral, no doubt about it and it will give me time to get in touch with the State as well.

Ms. Nakamura: You are gone though on the 1st, right?

Mr. Rapozo: On the 1st?

Ms. Nakamura: Yes. You have your...

Mr. Rapozo: No, I believe I am here on the 1st. Oh, hang on. Yes, I may not be here on the 1st.

Chair Hooser: The 24th, you are gone until the 25th. How about the 26th, it is a Thursday?

Ms. Nakamura: The 26th or 27th is okay with me.

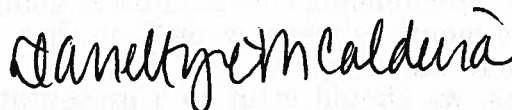
Ms. Yukimura: 27th is okay.

Chair Hooser: How about the 27th? Otherwise, it is another two (2) weeks. The 27th gives us one (1), two (2), three (3) weeks just about, three (3) full weeks which should be sufficient to work on amendments, to meet with whoever we want to meet with, craft the language, and be ready to vote on the 27th. I mean, clearly, we do not want to vote until we are ready to vote. But I think given the time, three (3) weeks, hopefully, do we have concurrence that the 27th will work? Then we need a motion

Upon motion duly made by Ms. Yukimura, seconded by Ms. Nakamura, and unanimously carried, Bill No. 2491 was deferred to September 27, 2013.

There being no further business, the meeting was adjourned at 9:16 p.m.

Respectfully submitted,



Darrellyne M. Caldeira
Council Services Assistant II

APPROVED at the Committee Meeting held on November 13, 2013:



GARY L. HOOSER
Chair, EDR Committee

aa:for dmc